United States Court of Appeals for the Second Circuit



APPENDIX

76-1307



In The

United States Court of Appeals

For The Second Circuit

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

vs.

BERNARD L. GOLDENBERG,

Defendant-Appellant.

On Appeal from a Judgment of the United States District Court for the Southern District of New York.

APPENDIX

Volume 11, pp. 279a-556a

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1	lh/lf	King-Direct	274
2	Q	Final individual, what is his name?	
3	^	Billerest on two checks and William Eriss of	n another
4	Q	Those are Superior Plans checks, is that ri	ght?
5	Α	Yes.	
6	C.	For a total of \$750?	
7	Α	\$750.	
8	Q	In any event, the grand total of these paym	ents to
9	various i	ndividuals is \$3,624:30, is that right?	
10	A	Yes.	
11	Q	The final category is bank charges in the a	mount of
12	\$165, che	cks mot located, \$2,296, for a grand total of	disposi-
13	tion of f	unds in Superior Plans account at the Centra	1 State
14	Bank of \$	416,975.30, is that correct?	
15	А	Yes.	
16	Q	There was one other item which is reflected	ı
17	on anothe	r chart which relates can you describe wh	nat
18	happened	to these certain checks?	
19		MR. LITTLEFIELD: Let me just bring this ch	art back
20	for a mom	ent, your Honor.	
21	А	All of these checks are Superior Plans chec	ks made
22	out to Su	perior Plans, Inc., and all say, "Deposit Or	nly to
23	an accoun	t of Superior Plans, Inc.," with an account	number,
24	and Berna	rd L. Goldenberg's endorsement beneath that.	
25	ର	That account number, can you tell if that i	ls money

lh/lf King-Direct

taken out of the Central State bank account and deposited in the Chelsea National bank account, account number 0250329-3?

A Yes.

Q So those are essentially bank transfers, is that right?

A Yes.

Q That's money taken out of one Superior Plans account and put into another Superior'Plans account?

A Yes.

Q So this is the chart of deposits directly from the Gluskin account into Superior Plans account at Central State Bank, and the total is \$470,000, into the Chelsea it is \$70,000, but additional money was actually then transferred from Central State Bank to Chelsea which indicates how the Chelsea is able to dispose of \$138,060 and Central State has \$68,000 less than the \$470,000 which it had in it originally?

A Yes.

Is that correct?

A Yes.

Q Yesterday we couldn't find the signature card for this account. I now have found it and show it to you. It is Government's Exhibit 11. Can you indicate who were the signers of the checks on Superior Plans account?

A Bernard L. Goldenberg.

- 1		2018
1	lh/lf	King-Direct 276
2	Q	Were there any other signers?
3	А	No.
4	Q	There was an officer listed as secretary, is that
5	right?	
6	Α	Philip R. Leeds, secretary-cashier.
7	Q	Can you tell the date that the account was opened?
8	k	March 7, 1968.
9	Q	Is that the date opened or the date
10	Α	There is a notation on the front that it was opened
11	3/8/68 by	A.J. Peleggi.
12	0	March 8, 1968?
13	А	Yes.
14	Q	I show you this file, Mr. King, which contains
15	Governmen	t's Exhibits 30 and 31.
16		MR. LITTLEFIELD: Your Honor, I handed a copy to the
17	court cle	rk of 30 and 31. Mr. Berger has a copy of that as
18	well.	
19	ç	Can you recognize this folder?
20	A	Yes. This is the original credit file of Mr.
21	Goldenber	g's account.
22	Q	Of the Superior Plans account?
23	А	Yes. Anytime an account is opened, we issue one of
24 °	these.	
25	Q	Is this folder did you bring this folder to court

23

24

25

Goldenberg.

This is in Mr. Goldenberg's handwriting, as far as you can tell?

		2070	
1	lh/lf	King-Direct	278
2	A	As far as I know.	
3	Q	This is in response to this request, it s	ays, "This
4	is to aut	horize you to issue official checks as ref	erred to
5	above to	Mr. Bernard I. Goldenberg personally in ret	urn for the
6	\$40,000 c	ertified check made out by John Gluskin, a	ttorney to
7	Superior	Plans, Inc. Sincerely, Bornard L. Goldenbe	erg, Presi-
8	dent"?		
9	A	Yes.	
10		MR. LITTLEFIELD: Your Honor, may I pass	this to the
11	jury.		
12		(Government's Exhibits 30 and 31 received	in evidence.
13		THE COURT: It is in evidence now.	
14	Q	I show you Government's Exhibit 31 and ask	k you what
15	that is?	What is that? Just the top two.	
16	А	This is an average balance card.	
17	Q	The top document is an average balance can	rd?
18	A	Yes.	
19	Q	What is the second white sheet?	
20	A	The history sheet of the account. It tell	ls whatever
21	documents	we have on file pertaining to the account.	
22	Q	Was it filled out when the account was ope	ened?
23	А	Yes.	
24	Q	It says name and address, Superior Plans,	Inc.,
25	301 East	48th Street, Suite 19-D; business, acquisit	tion of

THE COURT: He may want to look at it before he

25

would be on the yellow sheet.

	286a
1	lh/lf King-Cross 281
2	THE COURT: Does that refresh your recollection?
3	THE WITNESS: This says Mr. Peleggi.
4	THE COURT: Does that record indicate who introduced
5	the account?
6	THE WITNESS: According to this, Mr. Peleggi intro-
7	duced 1t.
8	What office did Mr. Peleggi hold in the bank, do
9	you know, at that time?
10	A He was vice president, assistant vice president.
11	Q Was he in charge of a branch?
12	A No.
13	Q Just a vice president?
14	A At 48th Street.
15	Q You looked at many, many checks in the past two
16	days. On the back of those checks, on some of them, there
17	are indications of the fact that Mr. Goldenberg was given
18	cash, is that right?
19	A Yes.
20	Q Was he given that cash in five and ten dollar bills,
21	can you tell?
22	A If there was no notation to that effect, I couldn't
23	say.
24	Q Is there a notation?
25	A On some checks on some of the checks they had a

1	lh/lf King-Cross	282
2	notation of the amounts, of the denominations.	
3	Q Do you recall whether any of those dens	ominations wer
4	five and ten dollar bills? Dollar bills?	
5	A There was no indication of such, no.	
6	MR. BERGER: No further questions.	
7	THE COURT: Anything further, Mr. Little	efield?
8	MR. LITTLEFIELD: No, your Honor.	
9	THE COURT: You may step down.	
10	(Witness	excused)
11	MR. LITTLEFIELD: The government calls	Miss Weed,
12	your Honor.	
13	LOIS C. WEED, called as a wit	tness on
14	behalf of the Government, having been first	duly sworn,
15	was examined and testified as follows:	
16	DIRECT EXAMINATION	
17	BY MR. LITTLEFIELD:	
18	Q Miss Weed, by whom are you employed?	
19	A Chelsea National Bank.	
20	Q Where is that?	
21	A Main branch is 250 Ninth Avenue. I per	rsonally am
22	located at 111 John Street.	
23	Q What is your position there?	
24	A Assistant cashier.	
25	Q Are you a custodian of bank records?	

1	1h/1f	Weed-Direct		283
2	A The	official custodian is the	cashier. I am	his
3	representativ	e.		
4	Q Fir	st I want to show you what	has been marke	ed as
5	Government's	Exhibit 21 in evidence and	Government's E	Exhibit
6	12A, which is	also in evidence. I ask i	f you recogniz	e first
7	21 and then 1	2 and 12A. This is 21. Th	is is the original	ginal,
8	is that right	?		
9	A Yes	•		
10	MR.	LITTLEFIELD: May we mark	the original a	s 21A?
11	(Go	vernment's Exhibit 21A was	marked for ide	entifica-
12	tion.)			
13	Q 21	1s what?		
14	A 21A	is the signature card for	the account of	f Superio
15	Plans, Inc.			
16	Q Wha	t is the address given for	that account?	
17	A Dur	olex 19-D, 301 East 48th Str	reet, New York	City.
18	Q Doe	es it say who the signer is	going to be or	n the
19	account?			
20	A It	specifies Bernard L. Golder	berg.	
21	C Any	other signers or does it	just say one?	
22	A Jus	st one. It does not indicat	te his title.	
23	MR	. LITTLEFIELD: I will offer	r in evidence	21A,
24	your Honor,	the original		
25	TH	E COURT: Any objection?		

	1	lh/lf	Weed-Direct 284
	2		MR. BERGER: No objection.
	3		THE COURT: Received in evidence.
xxx	4		(Government's Exhibit 21A was received in evidence.)
	5	Q	I show you Government's Exhibit 12A, which is an
	6	original,	and 12 is the copy. What is 12A?
	7	A	Exhibit 12A is a corporate resolution of Superior
	8	Plans, In	c.
	9	٠.	Is that filed with the bank to open a bank account?
	10	А	A corporate account, yes.
	11		MR. LITTLEFIELD: Your Honor, 12A does not indicate
	12	whether i	t has been marked in evidence. My recollection is
	13	that it ha	as.
	14		THE COURT: Any objection?
	15		MR. BERGER: No objection.
	16		THE COURT: Received in evidence.
xxx	17		(Government's Exhibit 12A was received in evidence.)
	18	Q	Can you tell by looking at these files when the
	19	account wa	as opened?
	20	А	The account opening sheet indicates the account was
	21	opened on	June 5, 1968.
	22	Q	Does it say when it was closed?
	23	A	9/5/74.
	24	Q	These are both new account sheets, is that right?
	25	А	That's correct.

	2700
1	lh/lf Weed-Direct 285
2	MR. LITTLEFIELD: May we mark these Government's
3	Exhibit 34?
4	THE COURT: Any objection, Mr. Berger?
5	MR. BERGER: No objection.
6	THE COURT: Received.
7	(Government's Exhibit 34 was received in evidence.)
8	MR. LITTLEFIELD: May I hand to the jury, your
9	Honor, the corporate resolution and the Exhibit 34?
10	THE COURT: Yes.
11	Q Those are the documents that are filed to open an
12	account, is that correct?
13	A That is correct.
14	Q Next I show you, Miss Weed, what has been marked
15	as Government's Exhibit 23 for identification and ask if you
16	recognize them? You can thumb through them. I guess you
17	have already looked at them.
18	A I have looked at them. They are monthly checking
19	account statements.
20	Q For what account?
21	A For the account of Superior Plans, Inc.
22	THE COURT: Covering what period?
23	THE WITNESS: For the period from June, 1968, through
24	the period December 31, 1968.
25	What is the opening balance

1	lh/lf	Weed-Direct 286
2		THE COURT: It is not in evidence yet. Any
3	objection?	
4		MR. BERGER: No objection.
5		THE COURT: Received.
6		(Government's Exhibit 23 was received in evidence.)
7		THE COURT: What is the opening balance?
8		THE WITNESS: \$100.
9	Q	What is the date of that?
10	А	June 5, 1968.
11	Q	What is the balance on the last
12	٨	On December 31, 1968, the balance is \$39.79.
13	Q	Were there any further bank statements, if you know?
14	А	Well, there would have been if the account were
15	still ope	n through 174.
16	e	Would they have continued to have been sent?
17	A	Yes.
18	Q	Have you checked that, to find out if there were any
19	further b	ank statements?
20	A	No. I was not asked to.
21	Q	Perhaps you can do that after you complete your
22	testimony	today.
23	Λ	For how long?
24	Q	Just find out any other bank statements you have in
25	your reco	rds.

	2728
1	lh/lf Weed-Direct 287
2	Very well.
3	MR. LITTLEFIELD: May I hand this to the jury, your
4	Honor?
5	THE COURT: Yes.
6	Q I show you what's been marked Government's Exhibit
7	22 for identification and ask you if you recognize those?
8	A They are deposit slips for the account of Superior
9	Plans, Inc.
10	THE COURT: For what period?
11	THE WITNESS: June 10, 1968, through August 16,
12	1968.
13	THE COURT: Any objection?
14	MR. BERGER: No objection, your Honor.
15	THE COURT: Received in evidence.
16	(Government's Exhibit 22 was received in evidence.)
17	MR. LITTLEFIELD: I can start this at the other end
18	with the jury, your Honor.
19	THE COURT: Very well.
20	Q Have you got a copy of the chart in front of you?
21	Miss Weed, you have had a chance to examine the figures under
22	Chelsea National Bank on this chart, which is Government's
23	Exhibit 29, have you not?
24	A Yes, I have.
25	MR. BERGER: We will stipulate that it is accurate.

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THE COURT: It is already in evidence, actually.

I would assume you would go over just those items on it that you particularly wanted to cover.

MR. LITTLEFIELD: Right, your Honor.

The first category of \$106,000 -- let me start with the second category here, Superior Plans checks directly cahsed by Goldenberg, \$12,000. I show you what has been marked Government's Exhibits 24J through M for identification. Are those checks directly cashed by Goldenberg from the Superior Plans account?

A Yes.

Q In referring to those checks, can you tell us the amount of bills that were issued for the checks?

A What do you mean --

THE COURT: In what amounts, the dollar bills? Fives, tens, anything else? Can you tell in any way --

Q For instance, check 110, what is that?

THE COURT: How much is it?

THE WITNESS: \$1,000.

THE COURT: What is the date of it?

THE WITNESS: August 2, 1968.

THE COURT: What bills were issued?

THE WITNESS: \$300 in one-hundred dollar bills, \$650 in it looks like fifties, \$40 in twenties and a ten

		294a				
1	lh/1f	Weed-Direct	289			
2	dollar bi	11.				
3	Q	Now check number 109.				
4	А	In the amount of \$4,000, dated August 6,	1968			
5	the \$4,00	00 was issued in one-hundred dollar bills.				
6	Q	What about the next check, number 112?				
7	Α	In the amount of \$4,000, dated August 9,	1968,			
8	40 one-hu	ndred dollar bills.				
9	Q	That's payable to Bernard L. Goldenberg?	Who is			
10	it payabl	e to?				
11	А	Each of the three checks is payable to B	ernard			
12	Goldenber	g.				
13	(Are they endorsed by Bernard Goldenberg?				
14	A	Yes.				
15	Q	Then they are cashed, is that right?				
16	A	Yes.				
17	Q	The next one is check 113?				
18	Д	\$2,000, dated August 23, 1968, endorsed	by Bernard			
19	Goldenberg, 20 one-hundred dollar bills.					
20	ବ	The next one?				
21	A	Check number 600, September 19, 1968, \$	1,000,			
22	eight one-hundred dollar bills and four fifties.					
23	£.	The total on that is \$12,000?				
24	А	\$12,000.				
25	Q	That's here on the chart under Chelsea N	ational Bank?			

	2778	
1h/1f	Weed-Direct	290
Α '	That's correct.	
Q	Directly cashed by Goldenberg?	
Λ	Yes.	
	MR. LITTLEFIELD: I want to offer all o	of 24, your
Honor, all	the checks from the Chelsea National I	Bank.
	THE COURT: Any objection?	
	MR. BERGER: No objection.	
	THE COURT: Received.	
	(Government's Exhibit 24 was received	in evidence.)
Q	Now we have located these first categor	ry of checks,
Miss Weed,	which are Government's Exhibits 24A th	hrough I,
and I ask	you just by looking at first Governmen	t's Exhibit
24A and wh	at we have now marked as the bank chec	ks as 24A (1),
sub 2, sub	3 and sub 4, can you explain how this	process worked
A	There is a check drawn on the account	of Superior
Plans.		
Q	Which check number?	
A	Check number 500.	
Q	The date?	
A	June 14, 1968, in the amount of \$20,00	00, payable to
Bernard L	. Goldenberg and endorsed by Bernard Go	ldenberg.
Q	Can you tell by looking at those bank	checks what
happened?		
A	The check was presented and official of	checks number
	A Q A Honor, all Q Miss Weed, and I ask 24A and wh sub 2, sub A Plans. Q A Bernard L Q happened?	In/If Weed-Direct A That's correct. Q Directly cashed by Goldenberg? A Yes. MR. LITTLEFIELD: I want to offer all of the checks from the Chelsea National in the Court: Any objection? MR. BERGER: No objection. THE COURT: Received. (Government's Exhibit 24 was received. Q Now we have located these first catego. Miss Weed, which are Government's Exhibits 24A the cand I ask you just by looking at first Government. 24A and what we have now marked as the bank check sub 2, sub 3 and sub 4, can you explain how this A There is a check drawn on the account. Plans. Q Which check number? A Check number 500. Q The date? A June 14, 1968, in the amount of \$20,000. Bernard L. Goldenberg and endorsed by Bernard Goldenberg and endorsed by Bernard Goldenberg and endorsed by Bernard Goldenberg?

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- Superior Plans checks, the entire amount was not used to purchase bank checks and there was a \$4,000 cash balance received by Goldenberg when part of the check was used to buy official checks, is that right?
 - A That's correct. It happened in one instance only.
- Q So that is one time there was \$4,000 which wasn't turned into a bank check?
 - A That's correct.
 - Q So that's the \$4,000 here, is that right?
 - A Correct.
- Q So we have a total -- total funds converted into currency in the Chelsea National Bank of \$122,000, right?
 - A Correct.
- either five or six, so the total of checks payable to Goldenberg or cash, \$122,000 from Chelsea National Bank. Then we go to Superior Plans checks payable to others on the Chelsea National Bank, is that right?
 - A That's correct.
- Q The first one, I show you what has been marked Government's Exhibit 24N and ask what that is.
- A It is a certified check voucher. In other words, a check was drawn on the account of Superior Plans, Inc., payable

1h/1f

Weed-Direct

to the order of Go Publishing Company, in the amount of \$5,000. That check was then certified against his account. A search of our records, we have not been able to find the actual check. This is the voucher that is made up as the substitute for the debit against his account.

MR. BERGER: Your Honor, we will stipulate that there was such a check and it was delivered to Go Publishing, or whatever.

THE COURT: Very well.

MR. LITTLEFIELD: Your Honor, may I hand these other checks, the original Superior Plans check with the bank checks attached, to the jury?

THE COURT: Is it really necessary to hand it to the jury now? We had the testimony as to what is contained thereon, and they will have an opportunity to look at it.

MR. LITTLEFIELD: Very well, your Honor.

Q Next is the purchase of Go Publishing stock. I show ou what has been marked as Government's Exhibit 24-0 in evidence and ask if you can identify that?

A Check number 111, drawn on the account of Superior Plans, Inc., on August 8, 1968, payable to Go Publishing Company, Inc., special trust account, in the amount of \$4,000.

Q And endorsed by -- on the front, who signed the check?

- 1					
1	1h/1f	Weed-Direct 295			
2	c,	Payable to?			
3	A	Bill Eriss.			
4	Q	Look at 121.			
5	٨	October 31, 1968, \$250 to Bill Eriss.			
6	Q	Can you look at the endorsement on that?			
7	A	On check number 121, the endorsement reads William			
8	Eriss, sec	cond endorsement by Bernard Goldenberg.			
9	Q	Then can you tell what happened to the check?			
10	А	It was cashed.			
11	ę.	In what amounts? Does there appear to be more than			
12	one check	cashed?			
13	P	There appears to be more than one check cashed because	e		
14	it aids up	p to \$650.			
15	Q	Referring to check 114 and 120, who are they payable			
16	to?				
17	А	Guido Benigno.			
18	Çı	They are Superior Plans checks signed by Bernard L.			
19	Goldenberg?				
20	А	Correct.			
21	Q	In the amounts of \$200?			
22	Α	Each \$200, each endorsed by Guido Benigno and just			
23	barely pe	rceptible is the second endorsement of Goldenberg.			
24	0	Can you tell what happened to them after they were			
25	second en	dorsed by Goldenberg?			

1	lh/lf Weed-Direct 296					
2	They were deposited and cleared through Chelsea National					
3	Bank, so the presumption is that they were deposited to the					
4	account of Superior Plans.					
5	MR. LITTLEFIELD: May I show these to the jury,					
6	your Honor?					
7	THE COURT: Yes.					
8	Q That payments to various individuals, Chelsea, totals					
9	\$900, is that right?					
10	A That's correct.					
11	Q Then the bank charges, \$10.21, is that right?					
12	A Yes.					
13	Q Checks not located. I understand since the chart					
14	was made you located					
15	A Two additional checks.					
16	Q We will have to mark them. They would be Exhibits					
17	35 and 36. Let's make them 24-0 and P.					
18	THE COURT: Any objection, Mr. Berger?					
19	MR. BERGER: I'd like to take a look at them, that's					
20	all.					
21	THE COURT: Show them.					
22	MR. BERGER: No objection.					
23	THE COURT: Received.					
24	(Government's Exhibits 24-0 and 24P were received in					
25	evidence.)					

1	1h/1f	W	eed-Direct			297
2	Q	24-0 is wh	at?			
3	A	24-0 is ch	eck drawn on	Superior H	Plans dated	Novembe
4	29, 1968,	payable to	Bill Eriss,	for \$250,	signed by	Bernard
5	L. Golden	berg, it wa	s endorsed by	y Bill Eris	s, second1	У
6	endorsed	by Bernard	L. Goldenber	g, and cash	ned, \$200 a	nd \$50.
	Q	I show you	Government:	s Exhibit 2	24P and ask	if you
8	recognize	that.				
9	А	Check numb	er 117, draw	n on the ac	count of S	uperior
10	Plans, In	c., to the	order of cash	n.		
11	Q	What's the	date on tha	t?		
12	٨	August 30,	1968, \$2000	, signed by	Bernard L	
13	Goldenber	g, endorsed	by Bernard	L. Goldenbe	erg and cas	hed.
14	Twenty \$1	00 bills.				
15		MR. LITTLE	FIELD: May I	show these	to the ju	ry, your
10	Honor?					
17		THE COURT:	Yes.			
18	Q	So the tot	al of checks	drawn on t	he account	of
19	Superior	Plans from	the Chelsea	National Ba	nk is \$138	,060.21,
20	is that	ight?				
21	Α ,	That's cor	rect.			
22	Q	Have you b	een able to	also review	deposits	into the
23	account,	specificall	y the questi	on o. bank	transfers	from the
24	Central S	tate Bank 1	n the amount	of \$68,000)?	
25	A	No.				

1	lh/lf	Weed-Direct	298
2	Q	You haven't done that yet?	
3	А	No.	
4	Q	I don't think I asked you to do it.	
5	А	No, you didn't.	
6		MR. BERGER: Your Honor, we will stipulate	that there
7	was such	a transfer.	7
8		MR. LITTLEFIELD: That solves that.	
9		I have no further questions.	
10		THE COURT: Cross examination.	
11	CROSS EX	AMINATION	
12	BY MR. B	ERGER:	
13	ç	Miss Weed, my name is Mr. Berger. I repres	sent Mr.
14	Goldenbe	rg. Do you know James Burstein?	
15	Α	Bernstein?	
16	ર	Bernstein?	
17	Α	Yes.	
18	Q	Who is he?	
19	A	He was formerly a vice president and lendi	ng officer
20	at Chels	ea National Bank.	
21	Q	Do you know where he was employed before he	e was
22	employed	at Chelsea?	
23	A	Central State Bank.	
24	- 4	Does the bank discourage cash withdrawals	in excess
25	of four,	five thousand dollars?	

1	1h/1f	Weed-Cross	300			
2	not colle	ected				
3	9	If they were collected.				
4	Α	If they were collected.				
5	C;	There is no time in the bank when you don't	t have			
6	20, 50, \$	100,000 cash in the vault?				
7	A	No.				
8		MR. BERGER: Thank you. That's good to know	ow.			
9		THE COURT: Anything further?				
10	REDIRECT	EXAMINATION				
11	BY MR. LI	TTLEFIELD:				
12	Q	Is Mr. Bernstein still with the bank?				
13	A	No, he is not.				
14	Q	When did he leave?				
15	Α	I don't know the exact date, but it was app	proximatel	y		
16	1972.					
17		MR. LITTLEFIELD: Thank you very much.				
18		Miss Weed is going to look and see if you	ean find			
19	any addit	fonal bank statements on this account, and	lf you cou	10		
20	let us know.					
21		THE COURT: We will take our morning recess	. If you			
22	want to 1	eave the documents you were looking at right	on			
23	your seat	s, we will take a ten-minute recess.				
24		(Witness excus	sed)			

(Jury not present)

THE COURT: Mr. Berger, have you had an opportunity to look at the government's requests to charge?

MR. BERGER: No, I haven't. I just got them this morning.

THE COURT: Maybe during the luncheon recess you can look at it.

MR. BERGER: Mine will be down here at three o'clock.

THE COURT: In the meantime you can look at the government's requests and point out to me what you agree with and what you disagree with. We have also had a government memorandum of law which I think covers the questions covered by the requests, and if you have anything to say with respect to that, I wish you would also do that after the luncheon recess.

MR. BERGER: I will, your Honor.

THE COURT: How much longer are we going to go, Mr. Littlefield?

MR. LITTLEFIELD: This morning I have five more short witnesses, each one is essentially fairly short, before we get to the flags question.

I would think we would be the rest of the morning with those witnesses and be ready this afternoon with the flight question.

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THE COURT: You will finish today?

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MR. LITTLEFIELD: I expect I will finish today,

your Honor.

THE COURT: You don't have to tell me anything, Mr.

Berger.

MR. BERGER: I am assuming, then, that we are not going to have to go through this whole reading of Gluskin.

MR. LITTLEFIELD: No. At this point we don't intend to read Gluskin.

THE COURT: I am trying to get interested in when I am going to have to charge this jury.

MR. BERGER: Probably tomorrow

THE COURT: All right. One of the jurors, as you heard yesterday, has a hospital appointment on Tuesday and he wanted to know whether he ought to cancel it or not. I told him I would let him know later in the day.

MR. LITTLEFIELD: Your Honor, one other point is that with respect to the flight and those sheets of paper that were taken from Goldenberg when he was arrested, those were shown to Mr. Berger last week, he actually didn't see them until this week, but he was told they were available last week. We had microfilm copies flown in from California. The originals are being brought in by the marshals this morning from California. I don't know whether Mr. Berger is

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going to raise any issue with respect to them or not. I

think we ought to discuss that, if there is going to be an

MR. BERGER: The issue I am raising right now is why the government has it. Certainly, there is no evidence in

simply seized property of Mr. Goldenberg and have arbitrarily held it with no purpose of putting it into this case. I have not been advised that it was going to be evidence in

the suitcases that the government should be retaining. They

this case.

THE COURT: Have you got any inventory?

MR. BERGER: The only thing I ever got, your Honor, was photostats of what was in there, and I have no inventory.

THE COURT: You are required to furnish him with an inventory, aren't you?

MR. LITTLEFIELD: I have all the documents, which I gave him a copy of. I made available to him microfilm copies from Colifornia.

THE COURT: If you had an inventory, I would be able to look at it without looking at the documents --

MR. BERGER: I certainly would object to your even look ing at the documents. They have his driver's license. Everything.

MR. LITTLEFIELD: Largely, they have checks in the

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name of Pernard L. Moran and various other names that are not Goldenberg.

MR. BERGER: In 1975, '6.

MR. LITTLEFIELD: During the period of flight, your Honor. That's what that is all about.

THE COURT: Do you have an extra copy for me to look at?

MR. LITTLEFIELD: I have one set here, your Honor, which I can hand to the Court.

THE COURT: We will take a ten-minute recess.

(Recess)

(In open court - jury present)

SEYMOUR SVIRSKY, called as a witness on behalf of the Government, having been first duly sworn, was examined and testified as follows:

Q Mr. Svirsky, could you tell the Court and jury by whom you are employed and what your occupation is?

I am considered a business broker and investment banker. I am self-employed and employed by our own corporation, which is called GPS Management Corporation.

Q Where is the office?

A The office now is at 44 Penn Boulevard, Scarsdale, New York.

Q Where was it before?

Q Where

1	lh/lf	Svirsky-Direct 305
2	A	19 West 44th Street, New York.
3	Q	From when to when?
4	A	I couldn't give you the exact date. I think about
5	two three	years ago.
6	Q	You left there about two years ago?
7	А	Yes.
8	Q	In 1968, is that where it was?
9	A	Yes. 44th Street.
10	Q	Mr. Svirsky, do you know a man named Bernard Golden-
11	berg?	
12	Α	Yes.
13	Q	Do you see him in court?
14		MR. BERGER: Identification conceded.
15	Q	Have you ever heard of a corporation called Superior
16	Plans?	
17	А	No.
18	a 6	Were you ever a vice president of a corporation
19	called Sug	perior Plans?
20	A	Not to my knowledge.
21	Q	I show you what has been marked as Government's
22	Exhibit 31	, Mr. Svirsky, which is already in evidence, and
23		that you have been listed on a bank account at the
24		tate Bank, Superior Plans, Inc., as an officer or
25		
	partner of	Superior Plans.

1	1h/1f	Svirsky-Dire	ect	306
2	A I have	no knowledge.	You have to refresh	me.
3	Have you got an	y signed docume	nts, or anything?	
4	Q That'	s all we have.		
5	A I nev	er signed, I do	n't think I ever autho	rized any-
6	body to do this	•		
7	THE C	OURT: You indi	cated you never heard	of
8	Superior Plans,	isn't that cor	rect?	
9	THE W	ITNESS: Yes	•	
10	THE C	OURT: He never	heard of Superior Pla	ns, so you
11	know nothing ab	out this, corre	et?	
12	THE W	ITNESS: Correc	t. Unless I can be re	freshed,
13	Judge. I mean,	it is eight yes	ars ago.	
14	Q Direc	ting your atten	tion to 1968, did you	have
15	an occasion tom	eet with Mr. Go	ldenberg?	
16	A What	was that again?		
17	THE C	OURT: 1968, die	d you meet Mr. Goldenb	erg?
18	THE W	ITNESS: Yes.		
19	4 In wh	at connection a	nd where did this meet	ing take
20	place?			
21	A I bel	ieve we were br	ought together for the	purpose
22			to get the companies	
23	problems and tr	y to arrange ri	nancial institutions to	help them
24	out of their pr	oblems, and I w	as brought in to see i	f I could
25	help Mastercraf	t, I believe th	e company was, at the	time.

THE COURT: Sustained. You can't assume.

MR. BERGER: Objection.

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THE WITNESS: What's that, sir?

THE COURT: When I sustain the objection, you cannot answer. You cannot assume anything. A new question is going to be put to you now.

Q Was there a discussion about any kind of stock or rules about stock

The only thing I could remember, and I don't remember it as an absolute, I just remember that Bernie just asked me for brokers, and during the conversation he might have rambled |-this is only my recollection --

THE COURT: What is your best recollection?

THE WITNESS: My best recollection is that he said something about a section that he could -- something with a section. It is very hard from 1968 to put me down to an absolute thing.

Do you remember what section?

No, I couldn't. It was 133-44, something. I don't remember if he said it. He never said -- when I saw the broker, that was never brought -- that was just in his rambling, which Bernie could talk on things.

Did you see him again after you had given your brokers names?

The reason I didn't see Bernie --A THE COURT: No, did you see him again?

314a 1 1h/1f Svirsky-Direct 309 2 THE WITNESS: I couldn't tell you exactly, Judge, 3 maybe once or twice more, but I was cut off, when I was 4 turned down on the finance company, which I was brought in 5 on. When all the companies turned us down, then I stopped seeing 6 them. 7 MR. LITTLEFIELD: No further questions. 8 CPOSS EXAMINATION 9 BY MR. BERGER: 10 Q Mr. Svirsky, my name is Berger. I represent Mr. 11 Goldenberg. Back in 1969, would your memory have been 12 better about the facts than today? 13 '69? I believe so. I am not sure. 14 Do you recall testifying before the Securities and 15 Exchange Commission on January 23, 1969? 16 Yes. 17 Do you recall being asked the following question and 18 giving the following answer --19 MR. LITTLEFIELD: What page, please? 20 Page 25: Q 21 Did Mr. Goldenberg indicate why he wanted 22 this introduction to any brokers? 23 No, he never said a word."

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Do you remember that?

Say that again. I never saw this 1968 --

- 1	2100	
1	lh/lf Lazarus-Direct 311	
2	(Witness excused)	
3	THE COURT: Next witness.	
4	MR. LITTLEFIELD: The government calls Mr. Lazarus,	
5	your Honor.	
6	IRVING LAZARUS, called as a witness on	V
7	behalf of the Government, having been first duly sworn,	
8	was examined and testified as follows:	
8	DIRECT EXAMINATION .	
10	BY MR. LITTLEFIELD:	
11	Q Mr. Lazarus, could you state where you presently	
12	live?	
13	A My present address I am a little hard of hearing.	
14	Q I will speak as loudly as I can.	
15	THE COURT: Where do you live?	
16	THE WITNESS: I live in Fort Lauderdale, Florida. Th	e
17	address is 3651 Northwest 52nd Street.	
18	Q How long have you lived in Fort Lauderdale?	
19	A Since January, 1973.	
20	Q Where did you live before January, 1973?	
21	A 90-02 63rd Drive, Queens.	
22	Q . What was your business at that time before you left	
23	for Florida?	
24	A I was discounting commercial paper. Business paper	-
25	Q What does that mean in sort of colloquial	

		517.	1
1	1h/1f	Lazarus-Direct 312	
2	٨	Cashing checks.	
8	Q	Where was your business located?	
4		32 West 47th Street.	
5	* Q	How did it work when you cashed a check? How	
6	did the	business work? How did you make your money?	
7	A	Whoever brought a check in, I charged them one	
8	percent	of the value of the check.	
9	Q	In 1968, did you do business with certain banks?	
10	Did you	nave your own accounts at certain banks?	
11	А	I did.	
12	C.	What were those?	
13	Α	What were they? .	
14	Q	Can you remember what the names of those banks were?	
15	A	I think it was the Royal National, the Central	
16	State, th	ne Chelsea National and I think I just don't remembe	r
17	no more.		
18	Q	Banco Popular?	
19	Λ	Banco Popular.	
20	Q	Do you know a man by the name of Bernard Goldenberg?	
21	Α	I have done business with him.	
22	Q	Do you see him in court	
23		MR. BERGER: Identification conceded, your Honor,	
24		THE COURT: All right.	
25		THE WITNESS: Sir?	

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THE COURT: He conceded the fact that you do know and you would identify Mr. Goldenberg as being the gentleman over there.

THE WITNESS: I think I would.

Q How did you know him? In what connection did you know him?

A I was introduced to him by an officer of the Central State Bank.

- Q Who was that?
- A His name was Peleggi.
- Q What did you do with Mr. Goldenberg in this business relationship after you had been introduced to him by Mr. Peleggi from the Central State Bank?
 - A He brought checks in to me for cash.
 - Q Was that the only business you had with him?
 - A That's the only business I done with him.
- Q What kind of checks were they that he brought into you?
 - A They were all bank checks.
 - Q Did you insist that they be bank checks?
 - A Those were the only checks that he brought into me.
- Q I want to show you certain checks and ask if you can recognize them as being checks that you cashed, and I will show you first checks 20A -- the checks that relate to check

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1	1h/1f	Lazarus-Direct 315
2	Q	You have been through the coks?
3	A	Right.
4	Q	The total number of checks that you cashed out of
5	these Sup	erior Plans, out of these bank checks to Bernard L.
6		g, \$251,000, right?
7	А	That's right.
8	Q	That's made up of \$106,000 in checks from the
9	Chelsea a	rid \$145,000 in checks from Central State?
10	A	Yes.
11		THE COURT: You got one percent of the face amount of
12	all those	checks? In return for that?
13		THE WITNESS: That's right.
14		MR. LITTLEFIELD: Mr. Berger has indicated that he
15	stipulate	s to that set of facts. Is that correct?
16		MR. BERGER: I do, your Honor.
17	Q	Did you keep a record of what size bills you gave
18	the cash	to Mr. Goldenberg in?
19	А	I only kept them for a short time.
20		THE COURT: Did you keep a record?
21		THE WITNESS: No. I only kept the record for a short
22	time.	
23		THE COURT: You did have a record, though, as to the
24	amounts	
25		THE WITNESS: I did have a record, and then I destroyed
		a debologed

1	1h/1f	Lazarus-Di	rect	316
2	it after a	month.		
3		THE COURT: Do you	have any present	recollection as
4	to the amo	unts?		
5		THE WITNESS: No.		
6		MR. LITTLEFIELD: I	have no further	questions of Mr.
7	Lazarus.			
8	CROSS ZXAN	INATION		
9	BY MR. BEI	GER:		
10	Q	Mr. Lazarus, my nam	e is Mr. Berger a	and I represent
11	Mr. Golden	berg. Your busines	s of discounting	commercial paper
12	and cashi	g checks, did that	have to be lice a	sed by any
13	governmen	al agency?		
14	Α .	No.		
15	Q	If you knew or had	reason to believe	that a check
16	was being	cashed for an illeg	gal purpose, would	d you cash
17	that chec	(?		
18	A	I would not.		
19	Q	In fact, you would	be a party to the	e crime
20		MR. LITTLEFIELD:	Object.	
21		THE COURT: Sustain	ned.	
22		MR. LITTLEFIELD:	I object to the o	ther question
23	and ask t	nat the answer be s	tricken.	
24		THE COURT: Yes.	The jury will dis	regard it.
25		Did Mr. Goldenberz	ever tell you wh	y he was cashing

1	lh/lf	Lazarus-Cross	317
2	these cha	ecks?	
3	A	I never asked.	
4	Q	Did you ask because you didn't want to	know?
5		MR. LITTLEFIELD: He said he never as	red.
6		THE COURT: Sustained.	
7	Q	Did you refrain from asking because yo	ou didn't want
8	to know?		
9	А	Well, it was none of my business when	he brought th
10	check in.		
11	Q	You say that you were introduced to Mi	. Goldenberg
12	by Mr. Pe	eleggi, is that right?	
13	A	That is right.	
14	Q	Would you tell the Court and jury why	Mr. Peleggi
15	introduce	ed you to Mr. Goldenberg?	
16		THE COURT: Sustained.	
17	A	To do business	
18		THE COURT: No, no. He can't tell us	as to what
19	was in Mr	r. Peleggi's mind.	
20	Q	Did Mr. Peleggi tell you why he introd	duced you to
21	Mr. Golde	enberg?	
22	A	The only reason	
23		THE COURT: Did he tell you?	
24		THE WITNESS: He knew I was in this bu	usiness.
25.		THE COURT: Did he tell you why	

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1	1h/1f	La zarus - Cross	319
2	did he ha	ave other people with him?	
3	A	No. He came all alone.	
4	e	You are sure of that?	1
5	A	I am positive.	
6	Q	Do you know a Mr. Hess?	
7	А	No.	
8	Q	Do you know a Mr. Michael Gardner?	
9	А	No. ·	
10	Q	Do you know a Mr. Gluskin?	
11	A	No.	
12	Q	Is this the first time you have been called	to testify
13	in a chec	ck carhing matter?	
14	A	No.	
15	૬	Did Mr. Goldenberg ask you to give him the ca	sh in
16	small der	nominations?	
17	A	What's that question?	
18		THE COURT: Did he ask you to give him the ca	sh from
19	the check	ks that you cashed for him in small denomination	ons?
20		THE WITNESS: Never mentioned the amount.	
21		THE COURT: In other words, you are telling u	us
22		THE WITNESS: In other words, whatever I	
30		THE COURT: Whatever you gave him you gave hi	im, is
24	that righ	nt?	
25		THE WITNESS: That's right.	

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1	lh/lf Lagarus-Cross 320
2	Q How many times did you meet Mr. Goldenberg?
3	A How many times I met him?
4	Q Yes.
5	A I couldn't tell you.
6	. THE COURT: Gentlemen, I shouldn't assume anything,
7	but if you look at these checks, would these refresh your
8	recollection?
9	THE WITNESS: Each time he gave me a check I met
10	him.
11	THE COURT: The checks are in evidence, unless you
12	want to go further at this particular time.
13	MR. LITTLEFIELD: I can tell the number of checks,
14	your Honor.
15	THE COURT: We don't need it at this moment, I
16	don't thisk.
17	Did Mr. Goldenberg tell you that he was making invest
18	ments in real estate out West, in Las Vegas, in California?
19	MR. LITTLEFIELD: I object, your Honor.
20	THE COURT: Sustained.
21	MR. LITTLEFIELD: Already answered.
22	THE COURT: No further argument.
23	Q Did Mr. Goldenberg tell you that he was using this
24	money, that it was being invested in real estate in Las
25	Vegas and areas around Las Vegas?

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1	1h/1f	Lazarus-Cross 321	
2	А	If I remember correctly, he mentioned something like	е
3	that.		
4		MR. BERGER: No further questions.	
5		MR. LITTLEFIELD: There are 69	
6		THE COURT: Wait a minute. If you and Mr. Berger	
7	can agree	outside how many there are	
8		MR. BERGER: Your Honor, I will withdraw that quest	ion
9	to make 1	t simple.	
10		MR. LITTLEFIELD: I have no further questions.	
11		THE COURT: You may step down.	
12		(Witness excused)	
13		THE COURT: Next witness.	
14		MR. LITTLEFIELD: The government calls Miss Goldste	in,
15	your Honor	r.	
16	MARCI	A C. GOLDSTEIN, called as a	
17		ess on behalf of the Government, having been first	
18	duly	sworn, was examined and testified as follows:	
19	DIRECT EX	AMINATION	
20	BY MR. LI	TTLEFIELD:	
21	0	Miss Goldstein, I show you what has been marked as	
22	Governmen	t's Exhibit 25 for identification and ask if you	
23	recognize		
24	Α .	Yes, I do.	
25	c	What is it?	
	11		

1	1h/1f	Goldstein-Direct 322
2	А	These are documents from a firm, EMC Securities.
3		THE COURT: From what? EMC Securities?
4		THE WITNESS: Yes, sir. Records.
5		MR. BERGER: Your Honor, there has been no predicate
6	no proper	foundation.
7		MR. LITTLEFIELD: I am asking her to identify the
8	documents	
9	Q	What is your present business job?
10	А	I am presentty engaged with an investment banking
11	firm.	
12	Q	What firm is that?
13	А	Kuhn Loeb and Company.
14	Q	How long have you been with them?
15	A	Approximately five years.
16	Q	Prior to that, where were you, specifically in 1968?
17	А	At that time I was president of a brokerage firm, EMG
18	Securities	s, Inc.
19	0	This record here is what, referring to Government's
20	Exhibit 25	for identification?
21	A	These are business records of EMC Securities.
22	Q	Are they kept in the regular course of business?
23	А	Yes, they were.
24	Q	Was it the regular course of business to make and
25	keep such	records?

1	lh/lf	Goldstein-Direct 323
2	A	Yes, it was.
3	Q	Are the markings and writings on these records made
4	at or abou	at the time that they purport to be made?
5	A	Yas, I believe they were.
6		MR. LITTLEFIELD: The government offers 25, your
7	Honor.	
8		MR. BERGER: Voir dire, your Honor.
9		THE COURT: Certainly.
10	VOIR DIRE	EXAL TON
11	BY MR. BE	RGER:
12	0	Is this in your handwriting?
13	r.	I don't believe so.
14	Q	Do you know whose handwriting do you recognize
15	the handw	riting?
16	Α	There were several people with the firm. I can't
17	for a fac	t say whose handwriting it was.
18	Q	Can you for a fact state that it is the handwriting
19	of someon	e in the firm?
20	٨	For a fact? I have to assume it is. I can't state
21	for a fac	t.
22	Q	The same on these other documents?
23	A	Yes, sir.
24	Q	When is the last time you saw these documents?
25	A	Last week.

1	1h/1f	Goldstein-Direct	324
2	Q	Before then when was the last time?	
3	٥	Several years ago.	
4	Q	Are you sure that these are the same docume	nts you
5	saw sever	al years ago?	
6	٨	Yes, sir.	
7	c	Do you know who made these documents up?	
8	А	Persons associated with EMC Securities.	
9	Q	Do you see them being made up?	
10	A	I can't recall.	
11		MR. BERGER: Your Honor, I object.	
12		THE COURT: Was it the habit and custom and	practice
13	of your company at that time to make such records?		
14		THE WITNESS: Yes, sir.	
15		THE COURT: Do you want to pursue it further	r, Mr.
16	Littlefield?		
17		MR. LITTLEFIELD: No, I don't.	
18		MR. BERGER: Your Honor, I object, as I don	't believe
19	a per	predicate has been shown to show that these	are, in
20	fact, the	records.	
21		THE COURT: Didn't you indicate to us that	you had
22	seen thes	se records back several years ago?	
23		THE WITNESS: Yes, sir.	
24		THE COURT: And these are the same that you	saw then?
25		THE WITNESS: Yes, sir.	

1	lh/lf Goldstein-Direct 325		
2	THE COURT: Did you see them in 1968 or whenever the		
3	date		
4	THE WITNESS: Yes, sir.		
5	THE COURT: May I see them, please.		
6	(Pause)		
7	THE COURT: I am referring to rule 901, in addition		
8	to the other rules, Mr. Berger.		
9	MR. BERGER: Your Honor, I suppose that if she		
10	identifies that she had seen them while she was employed, that		
11	would be enough.		
12	THE COURT: I think she has so testified.		
13	MR. BERGER: That's right.		
14	THE COURT: Under that, why, they will be received		
15	in evidence.		
16	(Government's Exhibit 25 was received in evidence.)		
17	BY MR. LITTLEFIELD:		
18	Q The top is this white sheet. What exactly is		
19	that?		
20	A That is a sheet from the customer ledger. That		
21	indicates the name of the customer and the security transaction		
22	effected for the account of the particular customer named on		
23	the skeet.		
24	Q What's the name of the customer on the sheet?		
25	A The customer is Bernard Goldenberg.		

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))Id	-	
1	1h/1f	Goldstein-Direct 326		
2	Q	What is the address?		
3	A	301 East 48th Street, NYC, NY, 10071.		
4	Q	Can you determine, did a stock transaction made by		
5	Mr. Golde	nberg?		
6	^	Yes, I can.		
7	Q	What's the date, the stock and the amount?		
8	A	For settlement on October 21, 1968, 1000 shares of		
9	Allograph	orporation at \$3 a*shar was purchased by Mr.		
10	Goldenber	g.		
11		MR. LITTLEFIELD: Excuse me, your Honor. We are		
12	trying to	locate this check here, the \$900 check.		
13		MR. BERGER: Your Honor, we will stipulate the shares		
14	were purch	hased, if he is having trouble finding them.		
15	Q	May I ask you, there was a \$900 check that you have		
16	seen, in fact, when you came to our office to be interviewed,			
17	is that r	ight?		
18	А	Yes, there was, \$900 check.		
19	Q	That was payable from Superior Plans, do you remember		
20	that?			
21	Α	Yes, I do.		
22		THE COURT: Mr. Berger will sto stipulate.		
23		MR. BERGER: Stipulate.		
24	ဂ	How many shares were bought?		
25	А	1000 shares at \$3 per share.		
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THE COURT: I will receive them.

MR. LITTLEFIELD: The 1968 return is Exhibit 4 in evidence already. The 1969 return is in evidence as Exhibit 5. The 1970 return is Government's Exhibit 6 for identification.

(Government's Exhibit 6 was received in evidence.)

MR. LITTLEFIELD: The certificate of nonfiling for the years up through 1973, your Honor, is attached as Government's Exhibit 8 for identification.

THE COURT: Received in evidence.

(Government's Exhibit 8 was received in evidence.)

MR. LITTLEFIELD: May we mark as Government's Exhibit 8A the certificate of nonfiling for the year 1974, your Honor.

(Government's Exhibit 8A was received in evidence.)

MR. LITTLEFIELD: Your Honor, may I show these documents to the jury at this point?

THE COURT: Yes.

MR. LITTLEFIELD: I will start the 1968 and 1969 returns at this end and 1970 I will start at this end, your Honor, and also the certificates of nonfiling --

THE COURT: I don't think the jury has to see those.

You can recite what it is and that gives us in a few words
what it is.

MR. LITTLEFIELD: This is a certificate from the

Internal Revenue Service that for the name of taxpayer, Superior Plans, Inc., address, 301 East 48th Street, New York, New York, it has the number, then it says, "No record of filing form 1120 period ending 7503," which is the third month of 1975 or the return for 1974. This one says the same thing, "Superior Plans, Inc., 301 East 48th Street, New York, New York" --

THE COURT: I think Mr. Berger would stipulate that they all say there were no filings in 1971, 1972, 1973 and 1974, that that is what those records provide.

MR. BERGER: I will so stipulate.

MR. LITTLEFIELD: The government calls Mr. Buchbinder, your Honor.

SIDNEY BUCHBINDER, called as a witness on behalf of the Government, having been first duly sworn, was examined and testified as follows:

MR. LITTLEFIELD: Your Honor, I have a chart for Mr. Buchbinder. Mr. Berger, you have seen the figures on this. Is there any objection to this?

MR. BERGER: I know you gave me some document on it.

THE COURT: Take a look at it. There is no reason

for the jury to look at it if they are not entitled to see it.

MR. BERGER: I object to it as a conclusion.

THE COURT: Why don't you go ahead and examine the witness first and then we will see whether or not it goes in.

- 11	
1	lh/lf Buchbinder-Direct 330
2	Where do you live, Mr. Buchbinder?
3	THE WITNESS: In Plainview, New York.
4	THE COURT: What is your occupation?
5	THE WITNESS: I am a technical advisor to the regional
6	counsel of Internal Revenue Service.
7	THE COURT: How long have you been so employed?
8	THE WITNESS: Approximately ten years.
9	THE COURT: What do your duties consist of as
10	technical advisor to the regional director?
11	THE WITNESS: To review cases for technical items
12	and to make computations for criminal prosecution purposes.
13	THE COURT: Any question about the qualifications of
14	this witness?
15	MR. BERGER: None, your Honor.
16	THE COURT: The defendant has conceded the qualifica-
17	tions of this witness as an expert with respect to tax
18	matters. Is that correct?
19	MR. BERGER: Yes, your Honor.
20	MR. LITTLEFIELD: Might I ask him, your Honor, how
21	many cases he has testified in and how many tax returns he
22	has worked on?
23	THE COURT: Yes, you may.
24	DIRECT EXAMINATION
25	BY MR. LITTLEFIELD:

1	1h/1	r	Buchbinder-Direct 331
2	,	ନ୍	How many cases have you testified in in connection
3	with	your	duties?
4		Α	Approximately 75 cases.
5		Q	You worked for the regional counsel for ten years,
6	is th	at r	Ight?
7		٨	Approximately.
8		ଚ	How many tax returns have you worked on approximately
9	over	that	period of time?
10		A	About 1000.
11		Q	Before that you were employed how?
12		Α	I was an Internal Revenue agent.
13		Q	For how long?
14		A	Approximately thirteen years.
15		Q	How many tax returns did you review as a revenue
16	agent	?	
17		A.	About 1500.
18		.!	Was one of the returns that you reviewed the 1968
19	tax r	returr	for Bernard I. Goldenberg?
20		Α	Yes, it was.
21		C	Did you make certain tax computations with respect to
22	Berna	rd L	. Goldenberg?
23		A	Yes, I did.
24	,	Q	I show you Government's Exhibit 1, which is the tax
25	retur	n of	Bernard L. Goldenberg. You reviewed that, is that

rrect?

. A

A Yes, I have.

MR. LITTLEFIELD: Your Honor, Mr. Buchbinder has made certain computations, and I'd like to have the chart -- the chart reflects --

THE COURT: I understand what his testimony is going to be.

Mr. Berger, do you object to the chart?

MR. BERGER: Yes, I do.

THE COURT: I will sustain the objection to its admissibility. On the other hand, I may permit the witness to use it as a guide in explaining what he has to compute here.

MR. BERGER: I think, your Honor, that the witness has a chart of that type in front of him.

as a guide and an aid. I am not sure that I am satisfied as to the qualifications, the contents, the voluminous writing.

On that basis I will sustain the objection to its admissibility in evidence. However, I will permit it to be used as an aid and assist to the jury in eliciting this witness' testimony.

MR. BERGER: No objection to that.

THE COURT: Very well. You may display it, but it is not to be received.

MR. LITTLEFIELD: May we mark it as Government's

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How did you get the 509 figure?

The government contends that a sum --

	339a
1	lh/lf Buchbinder-Direct 334
2	THE COURT: How did you get the figure?
3	THE WITNESS: How did I get the figure?
4	THE COURT: Yes. Did somebody give you the figure?
5	THE WITNESS: The figure of 540,000 I got from the
6	special agent's report.
7	Q From the \$540,000, how did you arrive at the 509
8	as the increase in taxable income?
9	A I subtracted an amount of \$21,586.11, which is con-
10	sidered as business expenses.
11	· Q Where did you get those figures?
12	A Also from the special agent's report.
13	Q This is business expenses of Mr. Goldenberg, is
14	that right?
15	A Yes.
16	Q That they determined he was entitled to take as
17	deductions?
18	A That is correct.
19	Q Off the 540?
20	A That's correct. In addition, I subtracted a sum of
21	\$9,238, which is considered as a short-term capital loss.
22	Q That was in addition to whatever he had already
23	claimed on his tax return as a short-term capitalloss?
24	A That is correct.
25	Where did you get that figure of nine thousand

A .'so from the special agent's report. The total amount of subtractions was \$30,824.11. Subtracting that from the \$540,000, I arrived at \$509,175.89.

- Q That's the increase in taxable income based on a starting point of the \$540,000, is that right?
 - A That is correct.
- The return said a loss of \$3,244, so you arrived at the corrected income by subtracting a negative figure of \$3,244 from 509 to get 505,931,89, is that right?
 - A That is correct.
- Q So then as an expert in this sort of business, you then took the \$505,000 and computed the tax on that, is that right, according to whatever tax rate Mr. Goldenberg would have?
- A That is correct. The tax was computed at joint return rates, because that is the best advantage for the taxpayer.

THE COURT: This was a joint return, wasn't it?

THE WITNESS: It was a joint return, yes, your

Honor. It was a joint return originally, and it is to his
best tax advantage. The tax on that amount came out to

\$325,132.32. In 1968 there was a surcharge, an additional
charge onto the tax of 7½ percent, which in this case amounted
to \$24,384.92. Adding the two together, the sum is \$349,517.24.

Since there was no tax shown on the tax return, then the

			0
1	1h/1f	Buchbinder-Direct	336
2	deficienc	y is the same figure.	
3	Q	So the deficiency is \$349,517.24?	
4	. А	That is correct.	
5		MR. LITTLEFIELD: I have nothing further, y	our Honor,
6	subject to	further hearings at the recess, on the qu	estion
7	of the add	missibility.	
8		THE COURT: Very well.	
9	CROSS EXAMINATION .		
10	BY MR. BE	RGER:	
11	Q	Mr. Buchbinder, my name is Mr. Berger. I r	epresent
12	Mr. Golden	nberg. How did you arrive at this increase	in taxable
13	income of	\$509,175.89?	
14	А	I started with the sum of \$540,000 as omitt	ed income.
15	Q	Let me ask you this. Who told you it was i	ncome?
16	А	I got the figures from the special agent's	report.
17	Q	You, yourself, did not determine that it wa	s income?
18	А	No, sir.	
19	Q	So you don't know personally whether it was	income?
20	А	Just what I read, sir.	
21	Q	So that somebody wrote down that there was	additional
22	income and	then you went shead and made a chart out o	f 1t, 1s
23	that right	t?	
24		That's correct.	
25	Q	And if the information supplied to you were	wrong,

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1	lh/lf Buchbinder-Cross 337
2	then this chart would be wrong, would it not?
3	A That is correct.
4	Q On this report that you saw, it set forth that there
5	was addition income. Did it set forth what the basis was
6	of whoever wrote the report for deciding that it was income?
7	A Yes, it did.
8	Q What was that basis?
9	A The basis was that the taxpayer received this sum
10	of money for arranging a stock sale.
11	Q So, therefore, it is I.R.S.'s position
12	MR. LITTLEFIELD: I object, your Honor.
13	THE COURT: I haven't heard the question yet.
14	Q According to the document from which you arrived
15	at your computations, that additional income was a result of
16	Mr. Goldenberg's share in a stock promotion, is that correct?
17	
18	MR. LITTLEFIELD: Objection to the question.
19	THE COURT: Sustained.
20	MR LITTLEFIELD: The document speaks
21	THE COURT: Please, sustained. All you did was make
22	computations, is that correct?
23	THE WITWESS: That is right, your Honor.
24	THE COURT: That's all you testified to here?
25	THE WITNESS: Yes, sir.
	THE COURT: On the heate of information furnished to

1	lh/lf	Buchbinder-Closs	338
2	you by so	mebody else?	
3		THE WITNESS: Yes, your Honor.	
4	Q	Did you check the information that was fur	nished to
5	you?		
6	А	Check what way, sir?	
7	Q	To determine whether it was accurate.	
8	A	No, sir. That's not my function.	
9		MR. BERGER: I have no further questions,	your
10	Honor.		
11		THE COURT: Anything further?	
12	REDIRECT :	EXAMINATION	
13	BY MR. LI	TTLEFIELD:	
14	4	The report that you referred to was prepare	ed by
15	the agent	s who worked on the investigation of this ca	ase, is
16	that right	t?	
17	А	Yes, that is correct.	
18	ಧ	It was a voluminous report?	
19	Δ	Yes, sir.	
20	Q	I show you what has been marked Government	's Exhibit
21	3532 and	ask if that is a copy of the special agent'	s report t
22	which you	referred from which you got the informatio	n on which
23	you based	your computations.	
24	А	Yes, sir.	
25		MR. LITTLEFIELD: I have no further questi	ons, your

1	lh/lf Buchbinder-Recross 339
2	Honor.
3	RECROSS EXAMINATION
4	BY MR. BERGER:
5	Q Mr. Buchbinder, can you look at this and find the
6	place at which it says that there was additional income of
7	\$509,175.89?
8	MR. LITTLEFIELD: I object to the question. The
9	government has no objection to the document being offered in
10	evidence, but beyond that I object to the question.
11	THE COURT: Yes, unless the document is going to be
12	going in, I don't think that
13	MR. BERGER: Being it is almost lunchtime
14	THE COURT: You want a recess now and have this
15	witness stand by?
16	MR. BERGER: Yes.
17	THE COURT: That is perfectly all right. We will
18	recess at this time until two o'clock. Don't discuss the
19	case. Have a pleasant lunch. We will see you at two o'clock
20	(Jury not present)
21	THE COURT: This hasn't been offered, the supporting
22	data has not been offered, so there is nothing for me to rule
23	on.
24	MR. LITTLEFIELD: With respect to what, the chart?
25	THE COURT: No, the way in which he arrived at this

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figure. I don't think there is any problem with the cart, really. Technically I think Mr. Berger is correct, it is not a voluminous document and I think it can only be used for the purpose for which I have indicated, as an assist to the jury.

MR. LITTLEFIELD: But I believe that could go into evidence as an assistance to the jury and you have to instruct the jury that it is just a summary of his computations.

THE COURT: I don't'think the rule provides --

MR. LITTLEFIELD: That particular one doesn't.

That rule deals with summary, as your Honor pointed out. There is another rule under which -- which I will have at the end of lunch.

THE COURT: Have that before we resume. If it is admissible, it will go in.

MR. LITTLEFIELD: With respect to the special agent's report, I think I spoke too fast in saying that I have no objection if it goes into evidence. I realize it is incredibly long, it reviews all the testimony in the case, and it lists all the exhibits.

THE COURT: Maybe Mr. Berger has a right to ask him where in that report he did find that figure. I think he may have a right to ask him that question. The only thing is it may open the door to a lot of other questions with respect to that document, but you are trying the case, I am not. I

 think he has a right to ask that question. Maybe I was superprotective of the defendant when I shouldn't be. I think he
has a right to ask that question. Then in the interests
of completeness, you may be able to go into some other things,
Mr. Littlefield. So you gentlemen weigh that over the
luncheon recess as well as the requests to charge. It appears
that I may charge this jury tomorrow.

MR. BERGER: My requests to charge will be here at three o'clock.

Mr. Littlefield's? They are not too bad. There are a few of them that are slanted that I am sure you are going to object to. Some of the basic ones, if we can agree on them, they may be incorporated right into my standard charge with the other parts of the charge, the boilerplate that I charge.

If you can agree on that or see where we stand on it or at least limit the issues on that, fine.

MR. LITTLEFIELD: Your Honor, I have one more matter.

The government will rest I would think within half an hour,

or so, so we would be ready to sum up this afternoon.

MR. BERGER: Your Honor, I have a problem with that. I didn't know until today that Mr. Gluskin's testimony was definitely not going in, and that would have been a day and a half of testimony. I have one witness that I scheduled

2 for tomorrow morning. My other witness is here.

THE COURT: You see if you can't get that other witness here, too, now.

MR. BERGER: I will try.

get that ironed out, and if you sum up this afternoon you will have it before you. I think you are entitled to it, unless you want to waive it, as to what I am going to charge.

MR. BERGER: I am going to look at this one.

THE COURT: You still have your right to except and object when I charge, but you have the right, you know, if you have made requests to me, to have rulings on them before you sum up. If you want to waive that rule --

MR. BERGER: No, I am not going to waive it.

THE COURT: Then let's get that together before you sum up.

(Luncheon Recess)

vs. Goldenberglh/lf dge Gagliardi Crim. 385 2

8/76

AFTERNOON SESSION

2:00 p.m.

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(In open court - jury not present)

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THE COURT: How do we stand here?

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MR. LITTLEFIELD: Let me see if Mr. Berger's witnesses

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THE COURT: Mr. Buchbinder, he is still here, isn't

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he?

MR. LITTLEFIELD: He is here.

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THE COURT: Are you finished with him?

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MR. BERGER: I am finished with him.

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THE COURT: If you want to ask him where he found

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those figures in the reports, I will permit you to do it.

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You are fully entitled to do it.

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MR. BERGER: I don't intend to.

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THE COURT: I just want to let you know that I was

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giving you the opportunity to do it, if you wanted to.

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MR. BERGER: I wanted to review the report, I haven't

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been able to review it, but I don't really care about it at

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this point in time.

want 1t.

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THE COURT: Then I would reverse my ruling that I

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previously made and give you that oppor inity, but you don't

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MR. BERGER: That's right. I will, though, have a

lh/lf

problem with witnesses. I have one witness scheduled for tomorrow morning. I have one witness here today. I expected Mr. Gluskin's testimony to be read and I figured that would be a day and a half. Because of the fact that Mr. Gluskin's testimony is not being read, I have fallen short with regard to bringing in the one witness that I have, and I feel he is an important witness.

THE COURT: What do you have left, Mr. Littlefield?

MR. LITTLEFIELD: Aside from the fugitive, I have

one matter relating to some regulations for banks in connection

with currency transactions in 1968, which I have a man -- I

have the regulation here, but I have somebody coming from

the Department of the Treasury, who should be here momentarily.

THE COURT: Am I not permitted to take judicial notice thereof?

MR. LITTLEFIELD: Yes, your Honor, but I just want to make absolutely sure from this man from the Department of Treasury what this means. I have no doubt that it means what it says, but I want to talk to him before I -- I point out to the Court here, Code of Federal Regulations, Title 31, Section 102.1.

(Pause)

THE COURT: Have you shown it to Mr. Berger?

MR. LITTLEFIELD: No.

THF COURT: Don't you care to?

MR. LITTLEFIELD: I care to. I will show it to him right now.

(Pause)

THE COURT: How long would your second witness take?

MR. BERGER: Five minutes, your Honor.

MR. LITTLEFIELD: What's the testimony?

MR. BERGER: The testimony of that witness would be that he was with Mr. Goldenbergon various occasions when he gave cash to certain individuals, being these proceeds as he cashed them.

MR. LITTLEFIELD: I don't know who this is, I can't stipulate to anything like that.

THE COURT: All right. How long would you expect to take in summation?

MR. BERGER: Your Honor, I don't think I will take more than fifteen minutes.

MR. LITTLEFIELD: Probably 45 minutes the first time through and fifteen minutes afterwards, your Honor.

The question of flight, your Honor, we have further discussions on that. I got the transcript new from Judge Frankel and some other ways of getting it in absent my own testimony.

THE COURT: You have the transcript. Will he agree to the transcript or not?

MR. LITTLEFIELD: What the transcript says, your Honor, this is the transcript from January 22nd, which thanks to the cooperation of the court reporter's office, was prepared between the time your Honor asked for it this morning and lunch, it was extraordinary that they could get it so quickly, but they did, and it says I reviewed the facts essentially of -- reviewing the fact that Goldenberg had called me and that I had told'him that he could have a two-week adjournment. If he sent a telegram and that he sent -- he agreed to the two-week adjournment and did send me the telegram. Then there is a discussion with Judge Frankel and Judge Frankel says to Mr. Berger, "You are not disputing the episode with the telegram and the promises, et cetera?

"MR. BERGER: I am not disputing that, your Honor.

After that telegram was sent," and then he goes on with an explanation. This is one of the areas that led me to believe that there was no issue, no factual issue here. Mr. Berger on the record said, "I am not disputing that." Then there are two other -- I will rest at that point.

MR. BERGER: I am not disputing that Mr. Goldenberg did not appear for arraignment. What I am disputing is flight, which is different than being a fugitive. The cases all deal with flight, not with being a fugitive. He did not respond to a letter of the U.S. Attorney's office telling him that he was.

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to be arraigned on a certain date. He did not appear for arraignment. A letter was sent by counsel in California stating that --

MR. LITTLEFIELD: To whom?

MR. BERGER: To you.

MR. LITTLEFIELD: No.

MR. BERGER: It is an exhibit, stating that they would like to arrange for --

MR. LITTLEFIELD: Do you have a copy?

MR. BERGER: It is the exhibit.

MR. LITTLEFIELD: Let's have a look at it. I certainly didn't ever get that letter in the mail, that I know of. I spoke to Mr. Eichler on the phone, yes, and he said that he would tell Mr. Goldenberg that Mr. Goldenberg was a fugitive and he had to come to New York immediately or he would be arrested if we could find him. I called Mr. Eichler back a week or so later. Mr. Eichler said he passed that on to Mr. Goldenberg, but he then couldn't find Mr. Goldenberg again, and as far as I know he is still looking for Mr. Goldenberg up until the time we found Mr. Goldenberg. I talked to him several times after that and he said he couldn't find Mr. Goldenberg and he had stuck him for his fees. The issue here is whether there will be a stipulation to the fact that Mr. Goldenberg called me, I told him he could have a two-week

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adjournment and he sent me a telegram. That's all I would testify to. I wouldn't testify to anything beyond that about flight or fugitivity, or whatever.

MR. BERGER: I have a letter from the firm of Cooper, Epstein, to whom it may concern, dated May 2, 1975, which shows that Mr. Goldenberg was advised --

MR. LITTLEFIELD: Where was that sent?

MR. BERGER: This was a letter that was sent to me.

It shows that -- I don't know who this was sent to. I don't
think I was retained on May 2, 1975. This was a letter given
to Mr. Goldenberg by the law firm which sets forth --

THE COURT: That doesn't have any probative value here.

MR. BERGER: It does. It sets forth his conversations with Mr. Littlefield. It sets forth the conversations of Mr. Eichler with Mr. Littlefield. It agrees with Mr. Littlefield to the point that he says, "I advised Mr. Goldenberg of the foregoing and advised that he immediately retain New York counsel for the purpose of both the hearing and the motion. I advised him further that if the motion were granted and the trial were transferred to Los Angeles, I would either represent him myself or recommend local tax counsel."

THE COURT: What you are doing, you are confirming
Mr. Littlefield's --

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MR. BERGER: What I am saying your Honor, is that -

THE COURT: We are getting away f. om what we want to find out here, as to what we can agree on as to the facts.

As to whether I charge flight and so forth is something else again. All we are tryin; to get here is an agreement as to what the facts are. If there is an agreement as to the facts, what the legal conclusion or what instruction I should give to the jury with respect to that is something else. We shouldn't argue that issue now.

MR. BERGER: The only fact I can agree to is that
Mr. Goldenberg did not appear for arraignment when he was
supposed to appear for arraignment. Outside of that, I think
the government has the burden of proving that Mr. Goldenberg
left the place where they first contacted him, either assumed
a different identity or went to a different address and left
no forwarding address, and did somethin; to evade being found.
The point remains that two weeks after he was advised of the
arraignment, he met with the F.B.I. at his home.

MR. LITTLEFIELD: Your Honor, we have the U.S.

Marshal here who arrested him. If you want to put him on the stand outside the presence of the jury this afternoon, Mr.

Berger can cross examine him to find out what exactly happened.

I wasn't there. I don't know.

MR. BERGER: There is no question that he was arrested.

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MR. LITTLEFIELD: This man participated in an investigation and has been in contact with the F.B.I. I have a memo from the F.B.I., your Honor, indicating that they had gone to all these different residences and couldn't find him.

MR. BERGER: Mr. Littlefield, how did you contact him?

MR. LITTLEFIELD: We contacted him initially, we got a phone number through the U.S. Attorney's office. Mr. Goldent berg was convicted of perjury four or five years ago, received a 90-day jail sentence from Judge Frankel and a \$4,000 fine. When he got out of jail, he did not pay the fine, he signed an affidavit of indigency. However, the government has been trying to collect the fine ever since then. That matter of collecting the fine was referred from our office in New York to California. They did have an address for him in California which is how I was able to contact him by phone. I called the and got a number and the agents then called that house and he returned the call to me, which is when the episode came about with the telegram and the adjournment. Thereafter, he did not come as he had agreed to do. We tried to contact him by phone again, I did not want to have the marshals go out to his house and arrest him at that point, I thought that he would come in voluntarily, as he had told me he would. When it finally became clear that he wasn't going to, the F.B.I. started looking

for him, and I have a memo here from the F.B.I. describing all the efforts that they had, which we can have marked --

proof. All you want now is the fact that he was to appear for arraignment and he didn't.

MR. LITTLEFIELD: That he sent a telegram sayir he would be here, he didn't show up, and he was finally arrested some ten months later.

THE COURT: You are going to prove that by putting in the transcript of the hearing before Judge Frankel?

MR. LITTLEFIELD: Except, your Honor, it is Mr.

Berger's saying, "I am not disputing that, sir." It is not
an admission from Mr. Goldenberg. I don't think I can offer
this. I think there has to be a stipulation now as to the set
of facts about my communication with Goldenberg and the telegram. Then we can either put the marshal on to testify about
the arresting him or there can be a stipulation to that as
well.

MR. BERGER: I will stipulate that he did not appear for arraignment. I will stipulate that he was arrested.

MR. LITTLEFIELD: And the telegram that he would come

if he got a two-week adjournment.

MR. BERGER: I will stipulate to the telegram.

MR. LITTLEFIELD: And that he did not show up and we

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were finally able to arrest him whenever it was, in January.

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THE COURT: That he did not show up and he was

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eventually arrested.

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MR. LITTLEFIELD: We eventually found him and arrested

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him in January.

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THE COURT: Will you stipulate to all that?

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MR. BERGER: I will stipulate to the fact that they

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arrested him ten months later: I won't stipulæte that he hid

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himself or was not available.

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THE COURT: All right. I think you got what you

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want, don't you? Write it down and see what you have got that

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you have greed upon. Sit down and write it out so that you

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know exactly what you are stipulating to and we will put

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(Pause)

it on the record.

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MR. LITTLEFIELD: I don't want to keep the Court

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waiting while I am doing this.

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THE COURT: You can do this right now. I don't mid

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sitting here waiting for you. I think you will get it done

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quicker this way.

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(Pause)

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MR. BERGER: With regard to the items seized by the government, the suitcase of Mr. Goldenberg, pictures of his

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daughter, social security card, I'd like to know of any reason .

352 1 1h/1f why that couldn't be returned to Mr. Goldenberg, unless they 2 are going to put his daughter's picture into evidence. 3 THE DEFENDANT: I can't go anywhere or do anything, 0 vour Honor --THE COURT: You are well represented here, Mr. 6 7 Goldenberg. 8 (Pause) 9 THE COURT: Is that satisfactory, Mr. Berger? Any 10 problem? 11 MR. BERGER: No problem. THE COURT: All right, Mr. Littlefield, you have your 12 stipulation. Is that satisfactory to you, Mr. Goldenberg? 13 14 MR. GOLDENBERG: I am still reading it, your Honor. 10 THE COURT: Finish reading it. 16 (Pause) 17 MR. GOLDENBERG: Yes, your Honor. 18 THE COURT: Satisfactory to all sides. Call your next witness. Remind me before we get through what we are going 19 to do with the personal possessions of Mr. Goldenberg. 20 MR. BERGER: Yes, I will, your Honor. 21 22 (Jury present) THE COURT: Just for your information, before we 23 24 swear this witness, the attorneys during the past 45 minutes that you have been sitting in the jury room have been working 25

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and they have agreed upon a stipulation which will be read to you. For your further information, it is expected that we probably won't go a full day today, but we will have one witness tomorrow morning which will complete the case and then we will have summations and charge and the case will get to you about mid or late morning tomorrow morning for your consideration. That's what we have been working on.' Proceed.

THOMAS P. EGAN, called as a witness on behalf of the Government, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. LITTLEFIELD:

- Could you state your name, please, for the Court and jury?
 - A Thomas P. Egan.
 - Q By whom are you employed?
 - A Internal Revenue Service, Intelligence Division.
 - How long have you been so employed?
 - A Approximately ten years
- Do you have special responsibilities in terms of banks and reporting transactions at banks?
 - A Yes, I do.
 - Q What are those special responsibilities?

A To investigate currency transactions conducted by individuals who maintain an account with financial institutions and to investigate the responsibility of the banks or other financial institutions to prepare and report to Internal Revenue Service said currency transactions.

Q Did you have that --

MR. BERGER: Objection, your Honor, to the entire line of questioning. May I approach the Bench?

(At the side bar)

MR. BERGER: If Mr. Littlefield intends through this witness to put into evidence the regulation concerning reporting of certain cash transactions by banks, I object to that based upon relevancy as there has been no proof --

THE COURT: What does it have to do, Mr. Littlefield, that the bank didn't report it to anybody?

MR. LITTLEFIELD: It is not that the bank didn't report it. The reason they didn't have the bank cash the checks and instead bought the cashier's check and brought them to Lazarus, which cost them one percent --

MR. BERGER: Then they would have to prove that Mr. Goldenberg knew of that regulation.

THE COURT: I could so charge. You have to be able to show he knew about it or had any information about it -
MR. LITTLEFIELD: I am offering the rule.

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THE COURT: We don't need this witness. There is no objection to my taking judicial notice of the regulation.

MR. BERGER: No, the Court can take judicial notice of every regulation. The point is that as a matter of proof in the case, unless they can show Mr. Goldenberg knew of it and was, therefore, avoiding it, it is not relevant.

THE COURT: I understand. I will take judicial notice of the regulation.

MR. LITTLEFIELD: One other point, your Honor. I may have a rebuttal witness.

THE COURT: If he has that, we will have that. We will take care of that then.

(In open court)

THE COURT: I can take judicial notice of it. I don't think that is a problem.

MR. LITTLEFIELD: This witness' sole function was to introduce this bank regulation.

THE COURT: I don't think it is necessary because

I can take judicial notice of that. It is not necessary to do

it.

Do you have any questions of this witness?

MR. BERGER: None, your Honor.

MR. LITTLEFIELD: May I then read this to the jury, your Honor?

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THE COURT: Not yet, no, because I am not certain
now that it is permitted, but I can take judicial notice of
it, in the event I do. What is the number of the regulation?

MR. LITTLEFIELD: Code of Federal Regulations,

MR. LITTLEFIELD: Code of Federal Regulations, Section 102.1A, B and C.

THE COURT: I will obviously take judicial notice of those, but whether or not they are applicable here or relevant here is something else that I will determine.

MR. LITTLEFIELD: Mr. Egan, then, can step down.

THE COURT: Yes.

(Witness excused)

MR. LITTLEFIELD: Your Honor, I may now read the stipulation. May I explain what a stipulation is?

THE COURT: Certainly.

MR. LITTLEFIELD: A stipulation is a set of facts agreed upon by counsel for both sides, which avoids the calling of additional witnesses. A stipulation has been entered into between Mr. Berger on behalf of his client and by me on behalf of the United States Government, as follows:

The arriagnment of Mr. Goldenberg on indictment 75 Cr. 385 was scheduled for April 28, 1975.

THE COURT: That's the indictment in this case.

MR. LITTLEFIEID: That's correct, your Honor.

Mr. Goldenber; received notice that he was required

to be present in New York for arraignment on that date. On April 25, 1975, Mr. Goldenberg, in California, called 3 Assistant United States Attorney Littlefield in New York. 4 Goldenberg told Mr. Littlefield that he needed additional time 5 to obtain a lawyer in New York and asked for an adjournment 6 of his arraignment for two weeks. Mr. Littlefield told Mr. 7 Goldenberg that the arraignment could be adjourned until May 12, 1975, if Mr. Goldenberg would send a telegram to Mr. Littlefield, advising that he had requested the adjournment 10 and would be present on May 12, 1975. Mr. Littlefield told 11 Mr. Goldenberg that it was a court order that he appear, 12 and upon failure to do so the Court would issue a warrant 13 for his arrest. Mr. Goldenberg then sent Mr. Littlefield the 14 telegram, Government's Exhibit 36. 15

THE COURT: No objection so it is received in evidence?

MR. BERGER: No objection.

THE COURT: Received in evidence.

(Government's Exhibit 36 was received in evidence.)

MR. LITTLEFIELD: The telegram reads from Pamona, California, United States Attorney's Office, Attention Mr. Bancroft Littlefield, One St. Andrews Plaza, New York.

"We have spoken and ascertained I required to May 12, 1975, to secure a lawyer present. Bernard L. Goldenberg,

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"23831 Twin Pines, Diamond Bar, California 19765."

On May 12, 1975, Mr. Goldenberg failed to appear in

New York and a warrant was issued for his arrest by the district

court. Subsequent thereto Mr. Goldenberg did not present

himself for arraignment in New York.

On January 10, 1976, subsequent to an investigation by federal authorities in California as to his location, Mr. Goldenberg was arrested at the Holiday Inn parking lot, Orange, California, and transferred by the marshals to New York for arraignment and trial.

As previously discussed, your Honor, aside from the various matters that are still outstanding, the government rests.

THE COURT: That means the government has concluded its presentation of evidence. You may reserve, Mr. Berger, on your motion, which we will take up in the absence of the jury.

MR. BERGER: Fine, your Honor. May I proceed?
THE COURT: Yes.

		그리는 얼마를 가셨다면 되었다면서 살아보는 아내는 사람들이 되었다. 그는 사람들은 사람들은 사람들은 사람들은 사람들이 되었다. 그는
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•	1	1hbr 1 Goldenberg-direct
nberg . 385	2	MR. BERGER: The defense calls Bernard
В	3	Goldenberg.
	4	BERNARD L. GOLDENBERG, called
	5	as a witness in his own behalf, having been first
	6	duly sworn, testified as follows:
	7	DIRECT EXAMINATION
	8	BY MR. BERGER:
	9	Q Mr. Goldenberg, have you ever been convicted of
	10	a crime?
	11	A Yes, I have.
	12	Q What crime?
	13	A Perjuey.
	14	Q When was that?
	15	A I believe it was around 1970.
	16	Q Will you please tell the Court and jury the
	17	facts and circumstances surrounding that conviction?
	18	A Yes.
	19	Ω When were you indicted?
	20	A Oh, I believe I was indicted about four years
	21	before I actually came to trial and then was on three counts
	22	convicted of one count of perjury.

Q This perjury, which is false swearing under oath, is it not?

A Yes, it is.

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	360
1	1hbr 2 Goldenberg-direct
2	Q Where did that take place, Mr. Goldenberg?
3	A To the best of my knowledge, I had testified
4	before a grand jury on two occasions, and then thereafter
5	about a year later to the Securities and Exchange Commission
6	because they had asked me to clarify some points so that
7	they could close a case that they were working on, and this
8	came to a couple of thousand pages of testimony, and against
9	the advice of my attorneys, I testified at all these times,
10	because I felt I had nothing to hide, and consequently
11	I was then indicted for three counts and I was convicted of
12	one, and it was to the best of my knowledge based upon
13	two lines on one page and three lines on another that were
14	contradictory by me of what I had said eight months before.
15	Q Mr. Goldenberg, this matter that you were
16	testifying about, were you a defendant in that matter?
17	A Well, they did tell me that I could possibly
18	maybe not be a defendant, but I had understood
19	THE COURT: No, no.
20	Q Were you a defendant in the case that you
21	testified about?
22	A I believe so.
23	Q You were a defendant?
24	A No.

THE COURT: If you will just listen to the

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1	1hbr 3 Goldenberg-direct 361
2	question and give a direct and succinct response to the
3	question that is put to you, were you a defendant in that
4	case?
5	THE WITNESS: Yes, I believe so.
6	Q Was that a civil case or a criminal case?
7	A A criminal case.
8	Q What was the name of that case?
9	A I believe it was' the Fotochrome case.
10	Q You were named as a defendant? You were
11	indicted in that case?
12	A I believe so, yes.
13	Q Were you convicted?
14	A On one count I see what you mean. Then
15	I wasn't a defendant.
16	Q In other words, you were asked to testify con-
17	cerning a case
18	A Another case.
19	Q In which you were not a defendant, is that
20	correct?
21	A That is correct. To the best of my knowledge.
22	Q As a result of your testimony in that case,
23	you were thereafter indicted for perjury?
24	A That is correct, to the best of my knowledge.
25	Q The perjury that you were indicted for took

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1	1hbr 4 Goldenberg-direct 362
2	place a Commission other than the Court, is that correct?
3	In other words, you were not indicted for swearing
4	falsely in court, but somewhere else, is that right?
5	A To the best of my recollection, yes.
6	Q Did you testify in the Fotochrome case?
7	A I don't believe so.
8	O Did you go to prison as a result of your
9	perjury?
10	A Yes, I did.
11	Q Do you now know the penalties for swearing
12	falsely under oath?
13	A Oh, yes, I do.
14	Q Do you realize that you are under oath now?
15	A Yes, I do.
16	Q And do you realize the penalties if you were
17	to swear falsely now?
18	A Yes, I do.
19	Q Going back to the year 1968, will you please te
20	the Court and jury when you decided to form Superior Plans
21	and what was the purpose of its being fomred?
22	A I decided to form Superior Plans because at
23	the time I was in negotiation primarily with advertising

seemed to be very logical, based upon some of my experience,

agencies under a new concept that thought I created that

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Goldenberg-direct

that we would take agencies in different states and based upon taking small agencies or almost similar to a co-op, by having about 20 agencies constituting some of the 50 states, we would then be doing may \$100 million in sales and have offices built in in each state, because most of the big problems of advertising agencies today are that they have a big problem in manning personnel throughout the country to properly service their clients. This would take care of that whole problem.

I consulted with several friends of mine who were substantial people in major advertising agencies, and they sort of sanctioned the concept. With that blessing, I proceeded to try to continue with that thought to go into that type of concept in business.

- Q What business were you in in 1968?
- A Representing companies as an advisor in acquisitions and mergers.
 - Q How long had you been in that business?
 - A I would say -- before '68?
 - Q Yes.
 - A I eouls say at least five years.
 - Q After 1968, were you still in that business?
 - A I am still today.
 - Q Will you please tell the Court and jury some

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of your clients in that business?

A Transcontinental Investing Corporation, I became associated with in that capacity. At that time they were on the American Stock Exchange, doing approximately \$18 million and making about \$1,200,000 after taxes. The years that I stayed with them, for about four or five years, they then went to the big board, which is the higher exchange than the American, and at that time I believe they were doing about \$160 million and making about \$12 million aftertaxes with a net worth of about \$60 million.

For them I bought a company called Spectrum, Ltd., that we paid approximately , I believe, a couple of million dollars for.

Mr. Goldenberg --

A Excuse me. This was also the company, when Mastercraft was in serious trouble as far as which way to go, it was on the strength of Transcontinental Investing Corporation and one of its principals, Mr. Weingrow that you heard be ore, went with Mr. Philip Leeds to Japan to negotiate the contract and to give stability to Mastercraft, based upon who Transcontinental Corporation was, that we were able to make the deal with the Japanese.

Did there come a time that you spoke to your attorney, Mr. Leeds, with regard to convertible debentures?

1	1hbr 7 Goldenberg-direct 365
2	A Yes.
3	Q Will you please tell the Court and jury
4	why that discussion you had that discussion with
5	Mr. Leeds and what happened as a result of that discussion?
6	A I will continue to do my best and try and
7	remember all these things, but it does go back quite a while
8	and since then I have been involved in quite a number of
9	other
10	THE COURT: Just answer the question
11	A (Continuing) To the best of my recollection,
12	because I was dealing with Mr. John Gluskin and because of
13	the primary reason that I was dealing with Mr. Gluskin,
14	I asked Mr. Leeds what would be the best way, based upon
15	what I explained to Mr. Leeds I planned to do with this
16	corporation, Superior Plans and possibly with Mr. Gluskin,
17	who he knew, to form or structure capital wise this
18	company, even though I had my own ideas, but I asked Mr.
19	Leeds on the legal basis what he thought would fill in
20	to the continuity of my thinking.
21	Q Was Mr. Gluskin supposed to pay you off for sell
22	ing Mastercraft stock?
23	A No.
24	Q Did Mr. Gluskin purchase certain convertible
25	debentures from Superior Plans?

1	lhbr 8	Goldenberg-direct GOJO
2	A T	To the best of my recollection, yes.
3	Q 7	Approximately how much money did Mr. Gluskin
4	pay Superior	Plans for convertible debentures?
5	λ 7	Approximately? A good ballpark figure I guess
6	would be half	E a million dollars.
7	Q M	Mr. Goldenberg, I show you Government Exhibit 13
8	in evidence a	and ask you whether these are copies of the
9	convertible	debentures which Superior Plans sold to
10	John Gluskin	?
11	A	Yes.
12	Q 1	Were there more than that or were those the only
13	ones that we	re sold?
14	A	I really can't tell.
15	Q	Did you sell Mr. Glaskin a convertible debenture
16	for every do	llar, \$10,000, that he gave you for Superior
17	Plans?	
18	A	You mean represented here?
19	Q	I don't mean represented there.
20		Did he give you money for anything other than
21	convertible	debentures?
22	A	No, not to the best of my recollection. No.
23	Q	Did you invest any other assets into Superior
24	Plans?	
		Vaa

1	lhbr 9 Goldenberg-direct
2	Q Did you invest
3	MR. LITTLEFIELD: Your Honor, I object to the
4	leading form of these questions.
5	THE COURT: Don't lead. Except that I don't
6	think that the last question was objectionable.
7	MR. BERGER: May he answer?
8	THE COURT: He answered "Yes."
9	Q What other assets did you invest in Superior
0	Plans?
1	A To the best of my recollection I believe
2	200,000 shares of Mastercraft, 50,000 shares of a company
13	called First Standard Corporation, and I believe we were
14	in negotiation and I had a signed contract to buy a bank in
15	Vermont with a Mr. Mason. That contract, several assets
16	Q Do you have a copy of the Mastercraft shares?
17	A Yes, and the stock certificate. Isn't that
18	Mastercraft? Yes. They didn't want to print a new
19	certificate.
20	(Defendant's Exhibit A was marked for
21	identification.)
22	Ω Without reading this, Mr. Goldenberg
23	MR LITTLEFIELD May I look at the exhibit?
24	(Pause.)
25	Q Without reading from this, can you tell the

had that in my possession.

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1	lhbr 11	Goldenberg-direct	369
2	Q	This is not an original, is it?	
3	A	No, that's a photostat. It see	ems to me that's
4	a photostat		
5	Ö	Do you know where the original is	5?
6	Α	That I would say should have been	n with
7	Mr. Leeds.		
8	Q	Why do you say that?	
9	λ	Because he kept all the books and	d records.
10	Ŏ	How do you happen to have a copy	?
11	A	It was my policy to make copies of	of everything
12	so that I w	ouldn't have to quite often if	I was out of
13	town run, a	s you probably know being a lawye	er
14		THE COURT: No, just answer.	
15		THE WITNESS: It is very hard to	get lawyers
16	when you wa	nt them, so it is good to keep co	opies.
17	Q	It is your testimony that you gas	ve the original
18	of this to	Mr. Leeds?	
19	A	I didn't say that. I said to the	ne best of my
20	knowledge I	believe it would logically be with	th Mr. Leeds.
21	5	When was the last time you saw th	ne original?
22		THE WITNESS: I can't recollect.	
23	Q	Did you ever see the original?	
24	Λ	Yes.	
25	Q	At what time?	

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1	1hbr 12 Goldenberg-direct
2	A I don't recollect. Well, I believe in Florida
3	when I negotiated with the Russellville National Bank.
4	Q Yes? When was that that you were negotiating
5	with the Russellville National Bank in Florida?
6	A Apparently in 1969. A little before August.
7	Q You saw it in 1969?
8	A To the best of my knowledge, that's when I be-
9	lieve I last saw it. The original.
10	Q What was it doing down there in Russellville?
11	A I didn't say I was in Russellville. I was
12	negotiating with the Russellville National Bank in Florida.
13	Q What was the stock certificate for Superior
14	Plans doing in Florida?
15	A If I may read you this letter, it will explain
16	it all.
17	Q Please, this is a voir dire, just answer that
18	question.
19	A I negotiated to put up 200,000 shares of Superior
20	Plans, Inc., for some couple of hundred thousand dollars
21	owned by a company owed to the Russellville National
22	Bank. The bank examiners felt that this company had to have
23	more collateral, and if they didn't they were going to fore-
24	close on the company. So thereafter they accepted Superior
25	Plans stock certificate as apparently

	371
1	lhbr 13 Goldenberg-direct
2	MR. BERGER: Excuse me.
3	MR. LITTLEFIELD: May I finish the voir
4	dire?
5	THE COURT: Yes, you may.
6	Q Thereafter they accepted the Superior Plans
7	what? Stock certificate?
8	A Stock certificate of Mastercraft as collateral
9	for the debt.
10	Q So you then had the original, it is your
11	testimony, in 1969?
12	A I said to the best of my recollection, I believe
13	that is when I last saw it, but I can't be sure. Maybe
14	Mr. Dye had it. I don't remember.
15	Q Did you give it back to Mr. Leeds after 1969?
16	A I don't recall.
17	Q Mr. Leeds testified that he left for Tucson
18	in 1968 and essentially thereafter
19	MR. BERGER: Your Honor, I object. This is
20	cross.
21	THE COURT: Sustained as to that. It is cross,
22	subject to cross examination, not a voir dire.
23	MR. LITTLEFIELD: Your Honor, I haven't seen
24	the original and I just don't

THE COURT: You don't believe that a satisfactory

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Goldenberg-direct

	1hhr 14 372
1	lhbr 14 Goldenberg-direct
2	explanation was made to excuse the presence of the original,
3	is that your objection?
4	MR. LITTLEFIELD: At this point, yes.
5	THE COURT: I would sustain that.
6	BY MR. BERGER:
7	Q Read that letter to yourself.
8	MR.I.ITTLEFIELD: If the witness is referring
9	to a document, it should be marked as an exhibit, if he
10	is being asked to have his recollection refreshed on some-
11	thing.
12	THE COURT: That is right
13	(Defendant's Exhibit B was marked for
14	identification.)
15	MR. LITTLEFIELD: May I see that?
16	(Pause.)
17	BY MR. BERGER:
18	Q Mr. Goldenberg, I show you this letter and ask
19	you whether you received it in the ordinary course of
20	business.
21	A Yes.
22	MR. DERGER: Offered in evidence.
23	MR. LITTLEFIELD: Your Honor, I object.
24	On the face of that predicate, there has been no predicate.
25	THE COURT: Sustained.
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	373
1	1hbr 15 Goldenberg-direct
2	Q Does this letter refresh your recollection as
3	to where the original 200,000 shares of Mastercraft stock
4	is?
5	A No.
6	Q This letter doesn't refresh your recollection?
7	A Other than
8	THE COURT: He said no.
9	THE WITNESS: No.
10	MR. BERGER: Your Honor, may I have a 10-minute
11	adjournment? I believe I require one at this time.
12	THE COURT: All right, we will take a recess,
- 1	
13	members of the jury.
13 14	members of the jury. (Jury not present.)
14	(Jury not present.)
14 15	(Jury not present.) MR. BERGER: I'd like to speak to my client.
14 15 16	(Jury not present.) MR. BERGER: I'd like to speak to my client. I think he is upset emotionally.
14 15 16 17	(Jury not present.) MR. BERGER: I'd like to speak to my client. I think he is upset emotionally. THE COURT: I don't know whether he is upset.
14 15 16 17 18	(Jury not present.) MR. BERGER: I'd like to speak to my client. I think he is upset emotionally. THE COURT: I don't know whether he is upset. I think there is a prohibition about speaking to a
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14 15 16 17 18 19 20 21 22	(Jury not present.) MR. BERGER: I'd like to speak to my client. I think he is upset emotionally. THE COURT: I don't know whether he is upset. I think there is a prohibition about speaking to a witness while he is on the stand during the recess. We had a problem about that in the last case you and I tried together, Mr. Berger, that's the rule. You may not discuss with your client while he is under oath during

(Recess.)

1	1hbr 17 Goldenberg-direct
2	(In open court; jury present.)
3	BY MR. BERGER:
4	0 Mr. Goldenberg, do you know where the 200,000
5	shares of Mastercraft Electronics stock that was in the
6	name of Superior Plans, Inc. is?
7	A We had given it to the president, Mr. Edward
8	Carroll, of Instant Charge Plan because he needed it to
9	THE COURT: He just asked you where it is.
10	THE WITNESS: Yes.
11	THE COURT: That is the only question. When
12	did you last see it?
13	THE WITNESS: When it was given to
14	THE COURT: When, just a date? That's all that
15	calls for. I think you really are going to have to be
16	specific with your answers and just respond to the question
17	that is asked.
18	THE WITNESS: Approximately in some time in earl
19	'69.
20	Q 1969? Did you give him the original of the
21	certificate?
22	A Yes.
23	Q Have you seen it since then?
24	A Not to my recollection.

Is this a copy of the certificate that you gave

- 1		5028	376
1	lhbr 18	Goldenberg-direct	,,,
2	him?		
3	A	Yes.	
4		MR. BERGER: Your Honor, it is off	ered in
5	evidence.		
6		MR. LITTLEFIELD: I object, your Ho	nor.
7		THE COURT: Sustained.	
8		MR. BERGER: Exception, your Honor	
9	ũ	In 1969 was Superior Plans doing b	usiness with a
10	company cal	led Instant Charge Plan?	
11	A	Yes.	
12	0	What was the nature of that busine	ss?
13	A	To the best of my knowledge, we ha	d negotiated
14	a plan of w	hich on certain stages we become mo	ore actively
15	engaged, Su	perior Plans, with Instant Charge F	Plan. One of
16	the stages	was where we had put up 200,000 sha	ares of Master-
17	craft stock	so that they could maintain their	position
18	with the Ru	ssellville Bank.	
19	Q	In August of 1969 where were the	offices of
20	Instant Cha	rge Plan located?	
21	A	I believe on Sunrise Highway in Fo	ort Lauderdale.
22	Q	Where were the offices of Superior	Plans, Inc.
23	located?		
24	A	301 East 48th Street, New York Cit	ty.
05			

During that period of time did you send and

1hbr 19 Goldenberg-direct

receive correspondence from Instant Charge Plan?

A Yes.

THE COURT: Would you gentlemen step up here.

(At the side bar.)

THE COURT: I know there is no objection, but what does '69 have to do with anything? We are concerned with 1968. His income in 1968. What he did in '69 is not relevant.

MR. BERGER: The tax returns for '69 were permitted in. You permitted the government to show there was no business in '69, no business in'70, no business in'71.

I had objected to that. Now I have got to show there was business.

MR. LITTLEFIELD: If these are a few preliminary question I would not object to it. I don't think we should go into great detail.

THE COURT: The tax returns were for '69, '70 and '71.

MR. BERGER: Quite frankly, I don't understand the grounds for the objection and you are sustaining the objection on putting in the copy.

THE COURT: Because the other people had possession of it, you must explain its absence.

MR. BERGER: My client doesn't have to.

A No, not at this time, I don't.

You cannot find the original?

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A No.

hotel at some future date along the line,

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Goldenberg-direct

MR. BERGER: Your Honor, this copy is offered in evidence.

MR. LITTLEFIELD: Voir dire, your Honor.

THE COURT: Yes.

MR.LITTLEFIELD: Actually, your Honor, I object on the grounds previously stated.

THE COURT: Sustained.

BY MR. BERGER:

Q You made an effort to find the original of this letter, Mr. Goldeberg?

A Yes.

Q Have you been able to find it?

A No.

O Do you know any reason why you have been unable to find it?

A Yes.

Q What's that reason?

Lauderdale while visiting the premises of Instant Charge

Plan were held up by three armed bandits at 6:30 in the

morning and physically assaulted and almost killed, and the

FBI has this on record, and whatever, it was in the newspapers,

and a lot of mv papers -- they were there for almost two

hours, these three armed bandits, they took a lot of

papers, money and different things. Possibly I had documents

1hbr 22 Goldenberg-direct

all pertaining to Superior Plans and Instant Charge Plan, and that's what I was doing in Florida at the time. I can only -- I can't say that that might have been the exact document that might have been one of the ones that was stolen, but I did have numerous documents and stuff stolen.

O YOu have tried to find this?

A Yes.

MR. BERGER: Your Honor, I reoffer it.

THE COURT: Mr. Littlefield?

MR. LITTLEFIELD: Your Honor, I object on the grounds previously stated. The witness has not stated definitely that the original was among those taken by the armed bandits. On the other hand, your Honor, I will withdraw my objection. I think that that is the simplest thing to do.

THE COURT: It will be received.

(Defendant's Exhibit B was received in evidence.)

MR. BERGER: Your Honor, at this time
I would pass this around to the jury.

MR. LITTLEFIELD: Your Honor, may I have a voir dire, your Honor, on the document?

THE COURT: Why don't you do it on cross examina-

1	1hbr 23 Goldenberg-direct
2	tion. You have withdrawn your objection and it is admitted.
3	MR. LITTLEFIELD: Very well.
4	BY MR. BERGER:
5	Q Mr. Goldenberg, you don't deny, do you, that
6	approximately \$500,000 went from Mr. John Gluskin's special
7	account into Superior Plans, do you?
8	A No.
9	MR. LITTLEFIELD: I object on the leading?
10	THE COURT: No, I will permit it.
11	A (Continuing) No, not at all.
12	O Do you know a man by the name of Bill Eriss?
13	A Yes, I do.
14	Q Bid you know him in 1968?
15	A Yes, I did.
16	Q Do you know a man by the name of Arnold Kimis?
17	A Yes, I do.
18	Q Did you know him in 1968?
19	A Yes.
20	Ω Do you know a man by the name of William Feinberg
21	A Yes.
22	Q Did you know him in 1968?
23	A Yes.
24	Q Would you please tell Court and jury how you
25	met Mr. Kimis and his relationship to Mr. Eriss and

Mr. Feinberg?

business with for a number of years before 1968, who recently the past couple of years died, when I was with Transcontinental Investing Corporation, I bought it for Transcontinental the business that he owned -- rather, he was one of the largest stockholers in, because at that time it had public when we bought it, which was a company that engaged in numerous distributorships, like Arthurs' and Little King Restaurants, and numerous other situations like that, that we bought for a couple of million dollars.

Q Mr. Goldenberg, be precise. When you say "we" --

A Transcontinental Investing Corpotation. I had bought this public company that Mr. Rudolph was one of the principals and operating day to day management from.

Mr. Ruldolph brought to my attention that it would be an interesting thing for me to meet a man called Mr. -- at the time I think he called him Mr. Kay. Later on I found out Mr. Kay called himself Kay because most people couldn't pronounce Kimis, so he would introduce himself as Mr. Kay. So consequently Mr. Rudolph introduced me to Mr. Kimis. When I had met Mr. Kimis, it was at the Park Sheraton Hotel on 7th Avenue in quite an elaborate suite of offices that he had taken there and --

a place to sleep. he had with him a man by the name of William Feinberg who he introduced me to as his bookkeeper and controller. When I had left, he had his chauffeur, who he introduced me to as Mr. William Eriss, drive me -- and at that time I can't be sure the first time, wherever he drove me to, but perhaps home, that's who these three gentlemen are.

Q Did there come a time in 1968 where you had certain discussions with Mr. Kimis, Arnold Kimis, with regard to some business between Superior Plans and himself?

A Yes.

Q Will you please tell the Court and jury when those discussions commenced and what they were about and what they resulted in?

A Taking it in order, Jerry Rudolf, after I met

Mr. Kimis, and I met, and he said, "You know, Mr. Kimis has

brought to my attention that there is a possibility in buying

a hotel in Las Vegas."

He said 'Bernie, this is right up your alley,
because you have spent a lot of time in Las Vegas on
business and perhaps this would interest you. Did Arnold
discuss this with you?"

I said "No, he discussed everything else, but he

didn't bring that up."

So I talked to Mr. Kimis about Mr. Rudolph calling this to my attention, and he said, "Yes, there was an interesting -- two situations in Las Vegas," he became aware of one of them through a motel that he had owned -- that he presently owned, that was quite a substantial motel, because it was right near a famous racetrack in California where they got a lot of business, the motel, during this racetrack season in particular. One word led to another, and he had mentioned the name of Minskoff. I commenced to ask him, is this the certain Mr. Minskoff, and he said "Yes, do you know him?"

I said, "Well, we went to military academy together, and certainly I do know him," and there are like four brothers and I told him I knew the other brothers, not as well as the one he had been referring to that I went to military academy with. So I called up Walter Minskoff and I said, "Now can you tell me a little more about Mr. Kimis who a friend of mine introduced me to who apparently has some deals in Las Veas?"

So he said, "Yes."

He said, "My brother really knows more than I do, who is a little older, called Leo."

I had known Leo, but not as well. Consequently,

1	1hbr 27 Goldenberg-direct 385
2	those two conversations with Leo and with I mean with
3	Walter as well as with Jerry Rudolph started me down the
4	track with Mr. Kimis, whereby Mr. Kimis and I discussed these
5	two problem situations.
6	After I discussed with Mr. Kimis basically
7	what he had in mind, I then took it up in one of those
8	secluded meetings Mr. Dayon said he could never participate
9	in in the office of Mastercraft, because I really never
10	had a permanent office at Mastercraft. I just went there
11	from time to time. Instead of waiting in the lobby,
12	I was able to use a room so that I wouldn't look like a
13	foot when I was doing the acquisition of mergers for
14	Mastercraft and bringing people to the premises.
15	MR.LITTLEFIELD: I object, your Honor.
16	It seems far afield from the question.
17	A (Continuing) So I discussed
18	THE COURT: All right, next question.
19	Q What discussion did you have with Mr. Kimis?
20	A Mr. Kimis and I resolved that there were two
21	ways to go.
22	One, to try and attempt to buy this hotel which
23	was called the Hacienda Hotel in Las Vegas, which was owned
24	by a man called Doc Bailey, and another way was through the

Minskoff interest and the Neers Rota family to build

1 lhbr 28

Goldenberg-direct

2 at

a hotel on an interesting piece of land in Las Vegas.

That's what we discussed.

Q Was there any conclusion to that discussion?

Did you reach any agreement at all with Mr. Kimis?

A Yes. After I made one or two trips I believe to Las Vegas to go over a few of the facts that he told me about and try and ascertain in my own way through the people I knew if it made any, sense, then we went further into -- if you want me to describe the essence of these deals?

Q Yes please.

Kansas City, that's why I opened up that bank account, to negotiate to buy the Landmark Tower, which later Howard Hughes bought, with Mr. Sandler, so I was really familiar with perhaps what I thought the value of what has happened in Las Vegas over the years. Mr. Kimis and I made a deal in the presence of Walter Minskoff and Jerry Rudolph whereby we would all participate in the following manner. I will take them one at a time.

Before you can successfully make a success out of a hotel in Las Vegas, you must have a gambling casino, because I helped financeCircus Circus, and they almost went broke until they actually built the hotel.

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There they had the casino but not the hotel. Here we were talking but if you had the hotel, you couldn't make any money unless you had the casino, because that's why people go to Las Vegas, as well as the entertainment. So therefore Mr. Kimis pointed out to me that you had to have at least a half a million dollars of solvency to make the Gambling Commission grantyou a license for X amount of slot machines, which even if you don't have any money in Las Vegas, everybody plays the slot machines, and therefore you have to have about a half a million dollars.

He didn't have to point that out to me becuase I was familiar with most of that. So I told him that if the Minskoffs would build the hotel and get the necessary mortgages, and the Minskoffs owned at that time about \$200 million worth of real estate in New York City and throughout Westchester, and I am aware of this, that consequently that would be very interesting. Then in another meeting we had, and this is the final meeting, not to bore you with the in between meetings, I told him that I could not come up with a half a million dollars right there, plus the fact that I didn't see why he would need the whole half a million dollars until they made more progress on getting the commitment on the mortgage and a few other things as far as the hotel went.

Consequently I said "Suppose we gave you the money in partial payments, would this be helpful?"

He said, "No."

Hacienda, and when I say buying, no one really ever owns 100 percent usually of anything, buying control of the Hacienda, the operating management, so we regotiated with Dr. Bailey to do this, and Dr. Bailey had a problem because he needed more slot machines before he could effectively fill up thos rooms. He had the hotel and slot machines. We said if we put up the money for the slot machines, we would like to have control and he could still remain running the hotel.

Just then Mr. Kimis said to me, "You know,
Bernie, it still would make more sense if we really," and
you will understand in a second why, "go back to the first
discussion."

So I said, "I thought you said this couldn't be done, that we exhausted this conversation?"

He said, "Well, I have a thought that was pointed out to me by Mr. Feinberg, my controller. We have this motel. We would be happy to put this into the deal, and based upon that would give Gluskin a little more security in his mind too, that, God forbid, everything didn't go through properly, at least you could wind up owning a motel

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Goldenberg-direct

that is a considerable motel."

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I said -- I didn't tell him this, but thought it, I said "Well, that made more sense to me too. At least we would have a 2-edged sword, you might say, for our money."

So I said "Under those conditions, what do you have in mind?"

He said, "Well, this way if we put in \$50,000 into the motel," because, as you might or might not know, most real estate people are rooms rich and real estate rich but no money in the bank, so consequently, if we could have on the balance sheet 50,000 in cash and show the equity of what the hotel -- motel was worth, and everything else, that consequently this might pass quite well the Gambling Commission with the partial payments. I said okar for the reasons I gave, that I thought this would give us a two-situation opportunity.

If everything went wrong, we would own control of this motel situation, and Transcontinental who I had been working for owned at one time over \$300 million worth of real estate, the Ambassador East and West in Chicago, as well as the Dinkler-Ama Hotel chain, so I was fairly knowledgeable a little bit about real estate, so I thought it could be a good investment, so we entered into the deal

whereby we would put in the money under partial payments.

In all fairness, I can't remember completely that I told Mr. Kimis where all this money was coming from, because it really was none of his business as long as he got it and we got what we wanted.

He probably had toknow because of what I will tell you next. But I don't know at what stage he knew.

So this money which Mr. Gluskin -- which I didn't know either was coming from the special account of his all the time, because he had over the years I understand represented some substantial people, whether it be Tommy Dorsey or his brother, but he was a very big entertainment lawyer at one time, Mr. Gluskin, years ago, and consequently he said that "If we need money, Bernie, I have other people besides the ones I am thinking about now."

So Mr. Gluskin would give me this money and I would take -- I think I am skipping.

You want me to still finish about Kimis, 100 percent?

Q What was your final arrangement with Mr. Kimis?

A The final arrangement with Mr. Kimis was we give him the partial payment money. He wasn't sure how much we would have to give him because now we are talking about putting in the hotel and everything, not buying one,

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but he thought it would be about three-quarters of a million dollars exactly. So consequently we argued that it came to three-quarters of a million that we would get a little less, he would get certain things, but this is what we 'ere going to get.

Superior Plans was going to get what we call points. It is almost the same thing as a percent, but in Las Vegas you call it points. So if you say 10 points, it is the same as 10 percent. Under Las Vegas law, the Gambling Commission regulates all monies and everything so it is almost impossible to cheat. You are under very, very tough scrutiny by law. We were going to get approximately 25 points in the gambling and were going to have equal management of the hotel, but we did agree that the Minskoffs could run the hotel and name who they would want, because they had the experience.

But we had to have equal interest because primarily Mr. Gluskin and I and Mr. Rudolph were interested in this deal because I would supply at the hotel many, many corporate meetings of corporations that in lieu of going to Florida or going to Hawaii would go to 18.8 Vegas to have corporate meetings, which today is very prevalent, and Jerry Rudolph would have many of these distributors meetings, because at one time he had Guy Lumbardo

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Boat Company, Gertrude Ederle Swimming Company, he owned Econo Car and sold that for \$335,000.

So he had the capacity to bring many, many people to Las Vegas as to this hotel. That's what Mr. Kimas and Mr. Minskoff liked the best about it. The Kimis operation could name who the gambling people would be, and that's where they hoped to have made all their money. So Mr. Gluskin, who had put in a lot of this money, as you know, who had given Superior Plans a lot of this money, consequently met with Mr. Kimis and me and made up an agreement with Mr. Kimis regarding what we would get and consequently what Mr. Kimis and what Mr. Minskoff would get and what Mr. Rudolph would get. In all fairness, even though I was a principal stockholder of Superior Plans, wehich was a private company, I did have the right to work for other people in acquisitions or mergers, which I never, ever relinquished in the ten years I have been in this field, because I have a contract -- a little clause in my contracts that say that I devote the time that I so deem required, it being understood I might work for a company in a similar capacity, because of the conglomeracy that we have today, where people are in a lot of similar businesses, that I had hoped to have the opportunity to possibly do acquisitions or mergers for the combined

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1	1hb: 35 Goldenberg-direct
2	casino and hotel at some future date along the line,
3	it might be two or three years later when we had reached
4	the time that that might be feasible, if ever.
5	That in essence is the Kimis situation.
6	Q Did there come a time when you gave a check made
7	out to a Kimis corporation?
8	A Are you done with your question?
9	Q Was there such a, time?
10	A I have a check here, I think it wouldn't take me
11	too long to find, I tried to coordinate everything, there
12	is so much paper work.
13	THE COURT: Do you have the check?
14	THE WITNESS: Yes. I believe a photostat.
15	June 11, 1968 to M&G Amusement Company, \$50,000, Superior
16	Plans, Central State Bank, signed Bernard L. Goldenberg.
17	MR. LITTLEFIELD: This is the exhibit we
18	gave you. It is in evidence.
19	Just a moment, your Honor, we have the check.
20	It is Government's Exhibit 20 AS.
21	Q I show you Government Exhibit 20 AS and ask you
22	for what purpose you issued that check.
23	A I issued it for the purpose I believe I just
24	said, but to try to repeat it in a different way, perhaps

THE COURT: No, don't repeat it in a different

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1hbr 36 Goldenberg-direct

way. Answer the question.

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Do you want the question read to you?

THE WITNESS: For the purpose of putting \$50,000 of working capital under our agreement into this motel of Mr. Kimis to be able to qualify with the Gambling Commission forwhat I just discussed.

Q Thereafter, did you give Mr. Kimis or anyone on behalf of Mr. Kimis any additional money with regard to this trasnaction?

A With regard to the overall transaction, yes, but no more money for the motel.

The rest want for the gambling license.

- Q You gave him money for the overall transaction?
- A That is correct. What I just explained.
- Q In what form did you give him this money?
- A I gave it to him in the form of cash.
- Q Why?

A Well, if you don't mind, I'd like to retract that partially, your Honor. I gave it to him in the form of cash and official checks from Central State or the Chelsea Bank.

Q Is there any reason why you gave him any cash at all?

A Yes.

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Goldenberg-direct

What was the reason?

Well, he gave me several, and I am trying to figure out the exact one that made sense to me why I did it.

The one that is based upon the reason why I gave it to him, the primary one, was that -- how do I explain this -- when I wanted to directly give him the checks from Mr. Gluskin that were given to me from the Chemical Bank, he said that he -- I was known to Las Vegas because he had checked me out, according to him, and also that Mr. Gluskin is a lawyer, and in addition to that, that he had to give the money to a lawyer who specialized in qualifying for gambling licenses in Las Vegas. I think he mentioned either Mr. Cliff Mones or Mr. Weiner.

So under that basis, and it is not uncommon, because many public corporations, if you read their annual report, like Caesars Palace, have like 12 --

MR. LITTLEFIELD: Objection, your Honor.

THE COURT: Sustained.

(Continuing) Based upon what --A THE COURT: No, I think you have answered the question.

> Did he request cash of you? Q

Or official bank checks, which I might have

what they are, without reading from each one of them, just

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what they are generally.

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Goldenberg-direct

A These are -- when money was turned over to Mr. Kimis --

THE COURT: What are they?

THE WITNESS: Executed receipts for moneys and cash that was given to Mr. Kimis or his nominees.

MR. BERGER: It is offered in evidence.

MR. LITTLEFIELD: Voir dire, your Honor?

THE COURT: Yes. '

VOIR DIRE EXAMINATION

BY MR. LITTLEFIELD:

Q You say these are executed receipts for money given to Mr. Kimis?

A Or people that represented him that I knew that he directed me it would be okay to give money to, like Mr. Feinberg and Mr. Eriss.

Q I refer now to the yellow one, for example.

It says up in the corner 3/19/68, 20,000 and something
there. Is that a receipt? What's this?

- A Can I look at it? On the 19th of March, '68 --
- Q What is this initial?

A I am reading. That is Mr. Feinberg's initials. His first name and his last name.

Q Now, looking at this pink one at the back, whose initials are those?

1	lhbr 40	Gol	denberg-d	irect	398
2	A	You picked t	he only o	ne I couldn'	t ramember
3	There were				r. Metz. I had
4		these about			
5	,	THE COURT: P			
6		MR. LITTLEFI			
7	objection				
	objection,	so we can cro	ss examin	about the	contents.
8		THE COURT:	All right	. Received	in evidence.
9		(Defendant's	Exhibit (C was receive	ed in
10	evide	nce.)			
11		MR. BERGER:	I will p	pass this am	ong the jurors.
12	BY MR. BERG	ER:			
13	Q	Have you kep	t a record	of the date	es on which you
14	gave these	gentlemen mon	ey and the	amount of	money you gave
15	them?				
16	A	Yes.			
17	Q	When did you	make that	record, do	you recall?
18	A	From time to	time I wo	ould bring i	t up to date.
19	You know, 1:	ke if I had	given him	\$60,000	
20		THE COURT: No	o, no.		
21		THE WITNESS:	You mean	what year?	
22	Q	In other word	ds, was it	a record yo	ou kept as you
2	were doing	the transaction	on or a re	cord you did	some time
24	dereafter?	When did	you keep	the record?	
25	A	I would bring	g it up to	date period	dically as I was

1	lhbr 41 Goldenberg-direct
2	doing paying these people.
3	Q Do you have that record with you?
4	A The only thing I have here is the receipts they
5	gave me. The other, a lot of the other records I had
6	were stolen in the hold-up.
7	Q Do you know the total amount of money you gave
8	to Mr. Kimis, either directly or through Mr. Eriss or
9	through Mr. Feinberg?
10	A I believe it comes to approximately \$29,537,
11	I believe.
12	Q Is that amount represented in the receipts that
13	you received from these individuals?
14	A No. If I was to say that, than I would have
15	to say
16	THE COURT: The answer is no, is that correct?
17	THE WITNESS: It is more. The answer would
18	be more.
19	Q You gave them more money?
20	A Then it would be more, based upon the receipts.
21	Q That you have more receipts than money you gave
22	them?
23	A No, I got more receipts than the money I think
24	I gave them.
25	Q How can that be?

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-	A Because certain of these slips here apparently
	add up to \$429,000. I also gave them a check for \$50,000
	that you saw, M&G Amusement Company. If we take the cash
	and the check, then it would have to be 479 instead of 429
	In all fairness, I'd have to review this for maybe a half
	hour to go over all these papers.
	O In other words was same than your many because

Q In other words, you gave them more money because of the check, is that correct?

A I would say it appears.

Q You didn't get a receipt for the check, is that correct?

A No. The check was the receipt.

Q You opened an account with a \$5,000 check from Superior Plans at Midtown Continental Bank in Kansas City, Missouri. Will you please tell the Court and jury why you did that?

A When I had gone down to Kansas City to see

Mr. Sandler about buying or negotiating the acquisition

of the Landmark Tower, Mr. Sandler was very attentive and very

cooperative, but he said "We have had many people negotiate

for this hotel. How do I know that you are sincere or that you

will ever be back, even though you come recommended?"

I said, "Well, to show you my real sincerity and that I will be back, do you have a bank in this town?"

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He said, "Not only do we have a bank in this town, we have one in the same building."

So I was really put to the test, and I went downstairs with him and I opened up an account in the bank for \$5,000, always knowing that I could take it out and put itback into the Central State Bank, but it certainly was -- he was very impressed, and it did more than my 2 hours talking to him about what I went down there for.

- Q Did you ever get back any of this money that you gave to Mr. Kimis or Mr. Eriss or Mr. Feinberg?
 - A To the best of my recollection, no.
 - Q Was that money of Superior Plans?
 - A Yes.
- Q On whose behalf were you negotiating when you were negotiating with Mr. Kimis?
 - A On behalf of Superior Plans.
- Q In 1968 when Superior Plans was first formed, were you negotiating with another company in the hosiery field?
 - A Yes, I was.
 - Q What was the name of that company?
- A Sultana Hosiery Company, and they owned about

 17 prominent location women's hosiery for all the women

 who needed stockings ruining them on the subways. It

 was an excellent location. As soon as you ruin your hose,

- 1	403
1	1hbr 45 Goldenberg-direct
2	red tie, and then I went to see a woman in Brooklyn who was
3	with the IRS, and then I went to Washington at my request, to
4	the extent that they took photostats and made me write a
5	letter to the Bureau of Identification, which is all right
6	here.
7	Q Did you tell the IRS who you gave the money to?
8	MR. LITTLEFIELD Objection, your Honor.
9	THE COURT: Yes, sustained.
10	Q When you gave them the receipts, did they
11	ask you whose name was on each receipt?
12	MR. LITTLEFIELD: Objection, your Homor.
13	THE COURT: Sustained.
14	Q When you gave them the receipts, did they ask you
15	any questions?
16	A They asked me for four months.
17	Q Did they ask you any questions about the receipts?
18	MR. LITTLEFIELD: Objection, your Honor.
19	THE COURT: Answer yes or no.
20	A I don't specifically recall that specific
21	question.
22	O You don't recall whether they asked you questions
23	about the receipts?
24	A Yes, they asked me questions about the receipts,

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but I don't recall what meeting it was.

1	lhbr 46 Goldenberg-direct	3.0.2
2	Q Did Mr. Kimis or anybody on behalf	of Mr. Kimis
3	kick back to you any of the cash that you paid	over to
4	them?	
5	A No.	
6	Q Do you believe that your 1968 feder	al tax
7	return is a fair representation of your earning	s for
8	that year?	
9	MR. LITTLEFIELD: Objection, your Ho	nor.
10	THE COURT: I will permit it.	
11	MR. LITTLEFIELD: Objection to wha	t he believes.
12	THE COURT: No.	
13	A Based upon the advice of my tax acc	ountant
14	THE COURT: No, no, do you believe?	
15	Q Do you believe?	
16	A Yes, I do.	
17	Q Did you intentionally leave off any	income you
18	had from that 1968 tax return?	
19	A No, I did not.	
20	Q Did you believe that the 500 some	odd thousand
21	dollars that you received in Superior Plans was	income to
22	you?	
23	A No, I did not	
24	Q Did you ever ask anybody at the ban	k, either
25	Central or Chelsea, to make out bank checks to	cash or

1	1hbr 47 Goldenberg-direct 200
2	to a nominee name instead of yourname?
3	A No, I didn't.
4	Q Did you have any bank accounts in 1968 under
5	nominee names in which you transferred money from the Chelsea
6	Bank and the Central Bank?
7	A No, I didn't.
8	MR. LITTLEFIELD Objection to the leading, your
9	Sonor.
10	THE COURT: Yes. The answer will be stricken.
11	Q Did you do anything to hide the money that you
12	received in to Superior Plans?
13	A No
14	MR. LITTLEFIELD: Objection.
15	THE COURT: Sustained.
16	Q Did Superior Plans go out of business?
17	A In the true serse of a corporation, I guess I would
18	have to say yes. But I never considered it completely
19	out of business because it is a private corporation.
20	But under the law, you know, of continuing it every
21	year, I would say the corporation is not in existence any
22	more.
23	Q Did you ever pay any dividends or any interest
24	to Mr. Gluskin on the investment that he made in Superior
25	Plans?

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Goldenberg-direct

	A	No
		NO

Q If your venture with Mr. Kimis had been successful, would you have paid the debentures or the interest to Mr. Gluskin?

MR. LITTLEFIELD: Objection.

THE COURT: Sustained.

O Why didn't you pay any interest on the debentures?

MR. LITTLEFIELD: Objection.

THE COURT: Sustained.

MR. BERGER: I have no further questions,

your Honor.

THE COURT: Can you go for about 15 minutes?

MR. LITTLEFIELD: Certainly, your Honor, or we

could start fresh tomorrow.

THE COURT: The timetable that I earlier told you in the day is obviously no longer operational.

If you could go for about 15 minutes now, why you might just

as well start out. I assume you are going to be quite a lenth of time with this wintess?

MR.LITTLEFIELD: I expect so.

of the way anyway. I assume that tomorrow will be entirely taken up testimony, will it not?

MR. LITTLEFIELD: I think so, your Honor. If there are additional witnesses, the government may have additional witnesses as well, in view of all this.

THE COURT: So let's go a little bit, then.

SOUTHERN DISTRICT COURT REPORTERS, U.S. COURTHOUSE

413a

1	1	4134
1	lhjb 49	Goldenberg - cross 407
2	CROSS EXA	MINATION
3	BY MR. LI	TTLEFIELD:
4	Q	Mr. Goldenberg, I see a mention of a Mr. Bing.
5	Who is th	at?
6	A	Mr. Bing is Guido Benigno, who never can be pro-
7	nounced r	ight, so I just call him Bing.
8	Q	Who is he?
9	A	He is a gentleman, who worked for me for many
10	years.	
11	. 0	In what capacity did he work for you?
12	A	In the office as you might say an assistant.
13	Ω	Did he give money to did you give him money
14	to transf	er to anybody?
15	X	To transfer what money?
16	Q	Any money.
17	A	Of any types?
18	Q	Yes.
19	A	Or pertaining to this?
20	Q	Of any types.
21		MR. BERGER: Objection.
22		THE COURT: I will permit it, with respect to
23	1968.	
24		MR. LITTLEFIELD: I will limit it to that.
25	Q	Did you give money to Mr. Benigno to give to

XXX

	7178		
1	lhjb 50 Goldenberg - cross . 408		
2	anybody?		
3	A I am sure he might have bought airline tickets		
4	for me.		
5	Q Did you give him any of the Superior Plans money		
6	to give to anyone?		
7	A To the best of my knowledge, no.		
8	Q These are the records that you have from the		
9	\$540,000 deposited into Superior Plans, is that right?		
10	A No. As I pointed out to Mr. Berger, I had addi-		
11	tional records that were stolen from me, among other		
12	records.		
13	Q What such records were those that were stolen		
14	from you?		
11.	A Similar to this shorthand book which shows de-		
16	posits that Mr. Gluskin gave me in different banks, then		
17	the days that I got the money, and money that went into		
18	the Chelsea Bank, and certain official bank checks, and		
19	M&G Amusement Company, and Go Publishing Company that		
20	Superior Plans gave money to.		
21	Q Superior Plans was a corporation, was it not?		
22	A That's correct.		
23	Q Required to keep records of the transactions of		
24	the funds in the corporation, was it not?		
25	A I am not quite sure what you mean by that		

it, your Honor.

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THE COURT: He says there is more to it.

to that. Here is the rest of it, if you want the rest of

	1	1hjb 52 Goldenberg - cross
	2	MR. LITTLEFIELD: I will start with this one,
	3	your Honor.
СХХ	4	(Government's Exhibit 37 was marked for identi-
	5	fication.)
	6	Q You say this is a record that you kept at the
	7	time the transactions were made of these transactions or
	8	not?
	9	A I would say this was not at the time it exactly
	10	took place, because I kept it in shorthand books. It
	11	seems to me it was transposed from the shorthand books to
	12	this piece of paper.
	13	Q This piece of paper was made up when and for
	14	what purpose?
	15	A Today I would say it has served many purposes.
	16	I don't remember.
	17	THE COURT: When was it made up?
	18	THE WITNESS: I don't remember the exact purpose
	19	at the time.
	20	THE COURT: When was it made up?
	21	THE WITNESS: I don't even recall that.

A Possibly. I don't remember.

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Q Was it made up a year after these transactions?

Q Was it made up within six months of these trans-

Goldenberg - cross

	Goldenberg - cross
2	A If I didn't remember six months, I can't remember
3	a year.
4	Q Was it made up last year?
5	A That I am sure wasn't done last year.
6	Q Was it made up sometime in 1971?
7	A It is possible. I don't recall.
8	Q What was the purpose for making it up?
9	A Just what it indicates. A breakdown of all cash
10	receipts.
11	Q Mr. Goldenberg, my astion is why did you make
12	up that record.
13	A I just told you, because it reflects all the
14	cash receipts of moneys that I disbursed.
15	Q What was the purpose for making it up?
16	A Other than what would seem obvious
17	THE COURT: No, no; what was the purpose for it?
18	THE WITNESS: I don't recall at the time. I
19	just told you that several times.
20	Q It just happened that one day you decided you
21	wanted to make up a sheet?
22	A No, there must have been a reason, but I don't
23	remember the reason at the moment.
24	Q This is a summary of these little chits?

This page apparently is, but the other pages

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is a summary of other things.

Q Let me ask you about this page, Exhibit 37.

Is this page a ary of exhibits?

A It appears to be, without me checking per chit with per thing. I would say it appears to be.

Q Was it made up from the chits?

A That I would assume also. Well, not necessarily, because I also had shorthand books. It might have come from the shorthand book.

Q Your testimony is that you do not recall why it is that you decided to make up such a list?

A I can only take an educated guess.

Q What's your educated guess?

MR. BERGER: Objection, your Honor.

THE COURT: Sustained.

Q Was there some special occasion that occurred that led you to decide you wanted to take those chits and make up another list?

MR. BERGER: Objection.

THE COURT: I will permit it.

A I would say apparently, but, as I say, I don't recall what the occasion was.

Q The shorthand books, were they made at the time that the chits were made, you say?

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Goldenberg - cross

	A	Nc.	As I	told	Mr.	Berger	from	time	to	time I
wor	ald bri	ing re	cords	up -	- me	etings 1	up to	date,	and	things.
So	I woul	ld not	say	that	it w	as done	at a	simul	tane	ous
tir	ne.									

- Q What did you put in the shorthand book?
- A Pertaining to this situation?
- O Yes.

A When I made payments to these people and what it was about and what day and how much and who signed for it.

- You made a complete record of all the payments
 you made to these people in the book?
 - A Or books, yes.
 - O These orthand book ??
- A Yes.
- Q At the time of the transaction or a summary at the end of the month?

MR. BERGER: Objection, your Honor. Asked and answered.

THE COURT: No, I will permit it.

A I just said I didn't do it at the time, I don't believe, but I don't think I waited a month. I usually brought things up to date usually over the weekends, was a time I spent a lot of my time bringing things up

for the week.

Q Did you take those chits and use them to put the records into the shorthand book?

A I would say most of the time, but otherwise I always carried by shorthand books with me, like I even have today.

Q But you said you made up the shorthand books over the weekend, not at the time the events took place, correct?

A Oh, but some transactions I might have written at the time and others that I didn't have I took from whatever other available documents I had to put in my shorthand pad.

Q Were there other available documents in connection with these payments that you claim you made?

A This would be an available piece of information, that if it wasn't in my shorthand pad on the day I gave the money, I would take it from here and put in in there with the ones that were already in there.

Q These are the chits?

A I didn't know you call them chits. If you want to refer to them as chits, yes, these are chits.

Q Can we get this straight. Tell me if I am wrong about the chits. The chits, you say -- how did they come

1	1hjb 57 Goldenberg - cross
2	to be, these chits?
3	A Quite frankly, I am glad you asked me that
4	question.
5	THE COURT: Just answer the question.
6	THE WITNESS: I am sorry. I didn't mean to
7	be
8	THE COURT: Okay.
9	THE WITNESS: I told Mr. Kimis I was dealing
10	with him.
11	Q The question is
12	A I am answering you.
13	Q I am asking you specifically how the chit came
14	to be made up.
15	A I am specifically
16	Q Did you make it up? Did you give it to someone?
17	I don't want to know the background. I want to know how
18	these chits came to be made up.
19	THE COURT: I think the question was ambiguous.
20	Now he is denying how they came to be made up.
21	THE WITNESS: I made it up.
22	Q Refer, say, to this yellow one, top right-hand
23	corner, 3/19/68, 20,000 circled. Top left-hand corner
24	3/18/68, 24,000, circled. Bottom left, 3/25/68, 20,000.

Bottom right, 3/21/68, 15,000. That's all your handwriting, .

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2	is	that	right?

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- A Yes, it all is my handwriting.
- Q You would go to Mr. Lazarus, the check casher, around the corner from the Central State Bank, and get the cash from him, is that correct?
 - A Yes, with one of these people, most of the time.
 - Q One of these people being whom?
 - A Mr. Eriss, Mr. Feinberg or Mr. Kimis himself.
 - Q Or Mr. Benigno?
 - A No.
 - Q Never Mr. Benigno?
- A He wight have been with me on an appointment, but I never gave him the money.
 - Q He was the driver for you?
 - A A driver? He has driven me, yes.
- Q Then what would happen? You would take the money in cash?
 - A Yes.
 - Q What would you do next?
- A I would count it out and Mr. Kimis or Mr. Eriss or Mr. Feinberg, whoever was a recipient, would count it also, and then they would give me their signature, their initial.
 - Q Let's refer then to the first one here in the

So on 3/18/68 it is your testimony that you would

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Q

go to the check casher -- with Mr. Feinberg?

A Not always, but most of the time they were always there. I might have had to meet him at the Sheraton Hotel sometime in the afternoon later on.

Q You would give over -- you get the check cashed by Mr. Lazarus?

A In large denominations.

Q Then you would give the cash to Mr. Feinberg, at least on this occasion?

A Yes.

Q You would be noting it down on the back of this little telephone slip, is that right?

A Or a bank slip, wherever we happened to be at the moment.

THE COURT: He is looking now at the yellow slip.

THE WITNESS: That's a telephone pad slip, that's correct, that's why I think it might be at the hotel.

Q You think this might be at the hotel?

A Yes. In other words, the other ones, if we were at the bank, we just took a deposit slip and sometimes wrote it on there.

Q Then he would give it back to you, is that right, after he initialed it?

-		425a
1	lhjb 61	Goldenberg - cross 419
2	A	Yes.
3	Q	And you give him the \$24,000 in cash?
4	A	Whatever the amount was he signed for.
5	Q	You were satisfied as president of Superior
6	Plans tha	t this was a record which you thought would be
7	sufficien	t for your purposes, is that right?
8	A	See, that's what I wanted to explain.
9	Q	Yes or no?
10	A	Yes.
11	Q	Now you go home, presumably, at the end of the
12	day, is t	hat right?
13	A	Yes, I assume so.
14	0	Then the next day, we now turn to the next day

Q Then the next day, we now turn to the next day, 3/19/68, you would go back to the check casher and get another \$20,000?

Whatever I got that appears there. It might have been 40.

It says 20 here

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You said I get another 20. You didn't tell me did I. I don't always get 20 all the time.

You got a 20 on the 19th, according to this. Q

If that is what you are asking me about and it says it there, that's correct.

Q Then what would you do? You just happened to 2 have 4

have this same slip of paper with you?

A That one I might have been carrying around so there was no sense making up four more, because this was for my record for Mr. Gluskin and Mr. Kimis, that I got the money -- that I gath them the money, so there couldn't be any doubt by Mr. Kimis that his people didn't get the money. This was just a method of establishing, which is a common practice, that the people received the money; not for me to worry about whether I gave Mr. Kimis money or not. That's the difference of what this is all about.

Q Did you borrow the money from this corporation to then give to Mr. Kimis?

A That was the purpose that Mr. Gluslin and I and Mr. --

Q No, the question is did you borrow the money from the corporation. Is that what you were doing?

A I would consider investing it, but if the word is borrow --

Q I am asking you, did you borrow it?

A I don't know if I would consider it borrowing from a corporation. I would say that we borrowed the money from Gluskin under debentures, but we invested this money to build something. I don't know if I could use the word borrowing. I am not sure.

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would go to the jury tomorrow, but things occur during the

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course of the trial that change the program and the scheduling. So it appears in any event that we will take testimony tomorrow and the case will not go to you until Monday. I know that Juror No. 3 has a doctor's appointment on Tuesday?

JUROR NO. 3: 10:30. Should I change it?
Perfectly possible.

THE COURT: Maybe, in the interests of caution you ought to do it. I think if you could reschedule it for Wednesday, I am pretty certain that 'hat wouldn't be a problem. Perhaps in the interests of caution you should do that. I don't want it hanging over your head. On the other hand, if it is an urgent appointment for you to make, how long an appointment would it be? I don't want to get too inquisitive about it.

JUROR NO. 3: It is an appointment for a test in a hospital and it will involve more than that. Let's forget it. I don't want it to intrude on my affairs in this at all.

THE COURT: Is it convenient or not?

JUROR NO. 3: No, that is all right.

THE COURT: We do have all the night jurors for the purpose such as this.

JUROR NO. 3: No, it is not important.

THE COURT: We will resume here at 9:30 in the morning. I have two or three pre-trials scheduled and hopefully they will not run too much into our 9:30 time.

Don't discuss the case. Have a pleasant evening, see you at 9:30 in the morning.

(Jury not present.)

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THE COURT: Requests to charge, Mr. Berger?

MR. BERGER: Yes, I have them.

THE COURT: You have gotten copies of Mr. Littlefield's requests to charge?

MR. BERGER: Yes, I have.

on in common and where the disagreement is in your requests.

If we spend a few minutes on it now we can -- request number four of the government, do you have that, Mr. Berger? Is it the same request as your number twelve or does it include what is in your number twelve?

MR. BERGER: I think it is the same, your Honor.

THE COURT: Is it the request number twelve, Mr. Littlefield?

MR. LITTLEFIELD: Yes, your Honor.

MR. BERGER: I think mine is more complete, but it is to the same point.

THE COURT: It covers the same elements. Four and defendant's twelve are the same except for the wording.

Request number five of the government. Do you have any idea where in yours that is or do you have the same matter?

MR. LITTLEFIELD: His request number nineteen, your Honor, does cover at least one point made by the government.

THE COURT: Let me suggest this. With respect to government's request number five, the first paragraph, it is just a repetition of the first element that is contained in your request number four. It is just a repeat of it, except expanding on it. The next paragraph, I don't see any need, unless you request me to, to summarize and marshal the evidence in here, Mr. Berger, to do so.

MR. BERGER: No. your Honor.

THE COURT: No requests, all right. So I will not charge the second paragraph in government's requests number five. I think you are agreed that the next to last paragraph in request number five on that first page of it, eliminating the citation to the cases is accurate. Do you have any problem with that?

MR. BERGER: Just one point, your Honor. At the very end I say this does not, however, include money received by way of investment or loan, except under special circumstances which I will explain to you a little later in my instructions, and which then are explained in a continuation of the government's requests. I am worried about any economic gain from whatever source. I don't want the jury to believe that the loan is an economic gain or a capital investment is an economic gain, except as you define it thereafter, which according to the continuation of the government's requests, they do define

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where under certain circumstances a loan is an economic gain where there is no intention to repay, although they do not say anything about capital, except if capital were to be embezzeled.

THE COURT: All they have got in the third paragraph on the first page of request number five is to take from certain parts of the statute, which is correct. I can't do much with that.

MR. BERGER: Except the part that might be misleading is where it says the term income is a broad concept which includes any economic gain from whatever source. The economic gain not bein; defined until perhaps later on in the government's requested instruction, I am concerned about capital, invested capital being considered economic gain or money that's loan being considered economic gain, unless there are other circumstances which turns that into economic gain.

MR. LITTLEFIELD: It is income, your Honor. Then

it may be explained away by a legitimate loan or investment.

But income is money coming in. That's what the concept income means. From whatever source derived, money coming in.

MR. BERGER: No, your Honor, that's not a proper definition under the Internal Revenue Code. The cases that are cited by the government are proper.

THE COURT: Let me put a question mark after that part of it.

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MR. BERGER: My request number nineteen, I simply say gross income means all income from whatever source derived. I think that's even broader than what the government has said, yet it is not as misleading.

THE COURT: That's in the first part of their paragraph there.

MR. BERGER: I would like it left right there.

THE COURT: I don't believe I have to get into the fact that gambling, and so forth, embezzlement --

MR. LITTLEFIELD: Except, your Honor, we want it on the clear that income doesn't have to be earned in the common everyday sense that one talks about earning income. Income can come from any kind of similar situation where money comes in to somebody.

THE COURT: Why not just the general statement without the specific reference? There is none of that here.

MR. LITTLEFIELD: Now there has been essentially the defense introduced that it was a loan, your Honor, I will provide perhaps further requests on that, because there are cases which talk about that precise point.

THE COURT: I could just eliminate and leave your last -- taxable income does not have to be income earned in the common everyday sense, but it may include income from loans where there is no intention to repay, and leave it there.

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I think if I do it that way, you have got it covered.

MR. BERGER: If you say no intention to repay at the time the loan was made.

THE COURT: Yes.

MR. LITTLEFIELD: I don't want that to be the only source of income that's an additional example.

THE COURT: What about the next paragraph? Government's request number five.

MR. BERGER: Page two, your Honor?

THE COURT: Yes.

MR. BERGER: That's on the net worth theory, your Honor, and that is not the theory the government proceeded on in this case.

MR. LITTLEFIELD: Again, what we have here is money, cash, ending up in defendant's hands, so it is not entirely dissimilar to Slusky in that respect.

MR. BERGER: It is not unexplained cash.

MR. LITTLEFIELD: It is income, cash, and now it is up to the defendant to explain it. That is the point of what your defense is, as I understand it. Now it is a loan.

MR. BERGER: This is definitely -- evidence of unreported funds in the hands of a taxpayer, this is out of the
net worth case, your H nor, not where the government has proven
specific dollars going to the taxpayer.

435a 429 1h/1f 1 THE COURT: I am going to look at that further. I 2 have a question mark after that. Page three, request number 3 five. 4 MR. BERGER: No problem with that. 5 THE COURT: Attempt to evade, where is that in 6 7 yours, Mr. Berger? 8 MR. LITTLEFIELD: Mr. Berger's elements are slightly different, your Honor. Therefore, I don't think he has this 9 10 one stated quite the same. 11 MR. BERGER: Request number eight. 12 MR. LITTLEFIELD: That first paragraph is word 13 for word what we have, your Honor. No problem withthat. 14 MR. BERGER: Then I must be wrong. THE COURT: Do you have any objection to the govern-15 16 ment's request number six? 17 MR. BERGER: No, your Honor.

THE COURT: Third element, willfulness.

MR. BERGER: I have that in number nine, your Honor.

THE COURT: I think the way it reads there in number seven is all right, don't you?

MR. BERGER: It is all right.

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THE COURT: It is continued on the next page. It
is all right. A little longer than I would go, but I think it
is all right. Go to page three. Page two is all right. I don!t

see anything wrong with pages one and two, except that circum-

stantial evidence is usually relied on.

1h/1f

MR. LITTLEFIELD: This, believe it or not, is directly from Judge Weinfeld, the whole section on willfulness, though I have a few more examples here, though he has most of these same examples from Spies.

MR. BERGER: I feel my request number nine, ten, eleven on willfulness are less inflammatory towards the defendant.

THE COURT: I think we all know what we are talking about. The question is how much. Page one is all right.

See defendant's nine, ten and eleven.

MR. LITTLEFIELD: Certainly the beginning of page three, your Honor, that's directly from Judge Weinfeld. It is more or less the same as request number eleven of the defendant and we would certainly hope that that would be included. The second paragraph more closely, so that it is adapted to this case, points out the relevant areas.

THE COURT: It is in there. You both have the same ideas. The question is how far do I go with it. I think they are both acceptable. It is just a question of choice as to which I will do. That takes care of the third element.

Delegation of the preparation of the return.

MR. BERGER: I find no problem with that.

THE COURT: Elements of the false declaration. I think the defendant has admitted that he signed the return, hasn't he?

MR. BEHGER: Yes.

THE COURT: Do you have any trouble with the government's request number nine?

MR. BERGER: I'd rather have my request number 21, 22, 23, 24, 25, 26, which would cover that point. I have broken it down into various requests. That's the point.

THE COURT: Essentially the same things. It is just a question of the choice of words, I think. Element three, falsity of material matter. Willfully and knowingly. Okay. Any objection to government's request number twelve?

MR. BERGER: I don't think it is necessary to have that --

THE COURT: Do you see any need for it, Mr. Little-field?

MR. LITTLEFIELD: I do, because it is different.

That's why the second count is different from the first count.

That's really the only sense. The only difference between the two counts is that in the first count the government has to prove an additional tax due and owing. In the second count the government doesn't have to prove that they were cheated out of any tax, only that there was something false on the

return in some mater 'al matter. So that's the only section that really distinguishes the two counts. I think for the jury to understand what the difference between the two counts is, it is essential that they at least be advised of that in some sort of language. I don't obviously have any particular feeling about this language or that exact --

MR. BERGER: I except to that, your Honor.

THE COURT: I will consider it. The charts, there is only one chart that's not in evidence, request number thirteen. Is there anything in yours, Mr. Berger, that is not contained in the government's that you would like me to look at?

MR. BERGER: I guess the boilerplate.

THE COURT: I have a couple of additional ones in here. One, we have flight, defendant taking the stand, conviction of a crime. The others are regular boilerplate. Anything else that you can think of?

MR. LITTLEFIELD: All I can say, your Honor, is that I think that the charge on count one on income and willfulness is critical, obviously, to this case, and I think it is a difficult and complicated issue in terms of charging, and perhaps tomorrow if we approach the point where we will know we are charging on Monday, we could get your Honor's thoughts at that point.

THE COURT: All right. 9:30 in the morning.

MR. BERGER: Your Honor, you asked me to remind you about Mr. Goldenberg's suitcases.

THE COURT: Y . What about those?

MR. LITTLEFIE.D: Those were seized in connection with the stolen car in California, your Honor. They are not in our custody. They are in the custody of the people in California.

THE COURT: Can you do anything about it? He needs his license, he needs his Social Security number, all those personal papers, why can't they be returned? Are they needed for evidence in any way?

MR. LITTLEFIELD: I can check with the people in California. I have no authority --

THE COURT: Will you check with the people in California and see whether he can't have his license, Social Security number and any personal documents that are necessary for him to have? Check out there. If they need them for evidence or any purpose out there, of course they can keep them. If they are just retaining them because of administrative snafus or we never do this until something else is done, I don't think that's right. While I have no authority over the proceedings in California, if you can make a check and get them back, I wish you would make the effort anyway. All right.

(Court adjourned)

SOUTHERN DISTRICT COURT REPORTERS, U.S. COURTHOUSE FOLEY SOUARE. NEW YORK. N.Y. - 791-1020

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1	lhjb 66
2	UNITED STATES OF AMERICA
3	v. 75 Crim. 385
4	BERNARD L. GOLDENBERG
5	April 9, 1976
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9	(In open Court, jury present.)
10	BERNARD L. GCLDENBERG, resumed.
11	CROSS EXAMINATION (Continued)
12	BY MR. LITTLEFIELD:
13.4	Q Mr. Goldenberg, did you own stock in Superior
14	Plans yourself?
15	A After the corporation was formed?
16	Q Is it possible to own stock in something before
17	something is formed? Yes or no?
18	A Yes, I did own stock in Superior
19	Q No, the question is, is it possible to own stock
20	in something before it is formed?
21	A I don't believe so.
22	Q After it was formed, then, did you own stock in
23	Superior Plans?
24	A Yes.

How many shares?

1	1hjb 67 Goldenberg - cross
2	A I believe I owned all the shares.
3	Q Where were the certificates?
4	A I believe Mr. Leds held them for me in his
5	office.
6	Q Were they issued to you?
7	A They were supposed to be.
8	Q Did you ever see any documents evidencing the
9	fact that they were issued to you?
10	A I don't recollect.
21	Q You don't recall whether you ever saw any docu-
12	ments?
13	A No, I don't recollect.
14	Q You have owned a number of stocks down through
15	the years, have you not?
16	A Yes, I have.
17	Q You understand that ownership of stocks is shown
18	by ownership of certificates, is that right?
19	A I believe that's the normal way, yes.
20	Q Unissued stocks, stocks where there is no record
21	of ownership, you have no claim to them at that point unless
22	you have a record of them, is that not right?
23	MR. BERGER: Objection, your Honor.
24	THE COURT: Sustained as to form.
25	Q Has there been a situation prior to Superior

Plans where you say you owned stock but didn't have the stock certificates issued to you?

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MR. BERGER: Objection, your Honor.

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THE COURT: No, I will permit it.

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A I believe so.

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When was that?

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When I bought stock in the stock market and it was kept in the street name for the purpose of being transferred easily so that in case you wanted to sell the stock, you wouldn't have to run down to the broker and deliver the stock. This is a normal practice, to my knowledge, where the street holds the stock for you on their premises.

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> That's when it is kept in a street name, is that Q

15

right?

16

Or they might just be holding it for you.

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But it is in somebody's name, is it not? Q

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Otherwise you wouldn't know who owned it. I certainly assume so.

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The Superior Plans stock was in no one's name, is that not right?

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I didn't say that.

23

You have seen the minute book. Was the Superior Plans stock in anybody's name?

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To the best of my knowledge --

1	1hjb 69 Goldenberg - cross 437
2	Q Yes or no, please.
3	A I don't believe I ever saw the minute book.
4	Q You have seen the minute book in court, have
5	you not?
6	A I saw somebody passing it around. It was never
7	shown to me.
8	Q Are there any stocks issued to you in this book,
9	Government's Exhibit 9 in evidence? I would ask the court
10	to direct the witness to answer yes or no to that question.
11	THE COURT: I will generally direct him, when
12	he hears a question, the answer ought to be yes or no or
13	"I don't know." Those three options are available.
14	A I am looking for the missing certificate I heard
15	somebody say was missing out of this book.
16	Q It is the last one there.
17	A Otherwise I wouldn't take up so much time. 20
18	is missing?
19	Q Was that issued to you?
20	A I wouldn't know. I can't tell, it is missing.
21	Q There is a sheet behind it which indicates what
22	the disposition of the stock is, is there not?
23	A It doesn't seem to be filled out.
24	Q Let me ask you once again. Is it your testimony
25	that you, Bernard L. Goldenberg, did own stock in Superior

1	lhjb 70 Goldenberg - cross438
2	Plans after it was formed?
3	A It is my testimony I believe I owned it all.
4	Q Could you answer that question yes or no?
5	A Yes.
6	Q You, Bernard L. Goldenberg?
7	A Me, Bernard Leon Goldenberg.
8	Q Mr. Goldenberg, when was the armed burglary?
9	A It was in Florida, and it was written up in the
10	newspapers
11	THE COURT: Just when was it, now. Listen to
12	the question
13	THE WITNESS: I am sorry, your Honor.
14	A (Continuing) I am not sure of the exact date.
15	I think it was the 18th or 19th. I don't know exactly
16	what date. 1968, 1969, I really don't know.
17	Q What year?
18	A I was robbed
19	Q The question is what's the date.
20	A I cannot recollect the exact date.
21	Q What year?
22	A I cannot recollect the exact year. It goes back
23	many years.
24	Q Was it 1968?
25	A It is possible.

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Goldenberg - cross

1968 was the year that you were involved in the Superior Plans transaction, is that right?

I believe so, yes.

Was it in April of that year that you had the armed burglary?

I don't recall the exact date or the year, to be more exact.

Yesterday you said that your Superior Plans records had been taken at this burglary, is that right?

A No. I said that I was robbed in Ft. Lauderdale of lots of papers, and to the best of my recollection, that papers of Superior Plans and other papers and instant charge plan were taken.

Q But you don't remember whether it was 1968, the year that you were passing -- that this money was passing into Superior Plans and you were taking it out?

No, I don't exactly remember.

Was it 1969, one year later? Q

It is possible.

Defense ExhibitB, the letter relating to instant charge, is dated August 12, 1969, and that had to do with business in Ft. Lauderdale, Florida, did it not?

A Yes.

Does that help refresh your recollection as to

1	1hjb 72	Goldenberg - cross
2	whether t	he : rglary was in 1969?
3	A	No.
4	Q	Do you know whether the burglary was in 1969?
5	A	It might have been. I don't recall.
6	Q	Was the burglary in 1970?
7	A	I don't believe so. It is possible. I don't
8	recall.	
9	Q	You think it was before 1970?
10	A	I believe it was.
11	Q	Was it in 1971?
12	A	I believe it was
13		MR. BERGER: Objection, your Honor.
14		THE COURT: No, I will permit it.
15	A	(Continuing) No, I don't think so.
16	Q	Can you say more than "I believe" to the fact
17	that it v	was before 1971?
18	A	I believe it was before '71.
19	Q	I am asking, can you answer definitively
20	A	No, I cannot.
21	Q	The best of your recollection is it was before
22	1971?	
23	A	Yes.
24	Q	And also before 1970?
25	A	I am not sure.

1	1hjb 73 Goldenberg - cross
2	Q A minute ago you said to the best of your recol-
3	lection you believed it was before 1970.
4	A Yes, but I am not sure, as far as it might
5	have been '70, but I don't think so.
6	Q You think it was '68 or '69?
7	A Yes, I do.
8	Q In any event, it wasn't '72, is that right?

I would doubt that very much.

Q You have no doubt, do you, that with respect to those checks from Mr. Gluskin to Superior Plans, that Mr.

Gluskin wrote those checks, do you?

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A No. I am certain that he wrote those checks, to the best of my knowledge.

Q In his own handwriting?

A His own handwriting? I didn't see him write them all, but it appeared to be his handwriting.

Q On the back of them, you would then endorse them for deposit in Superior Plans, is that right?

A Yes, if they were made out to Superior Plans, which they were.

Q You recognize your handwriting?

A Yes.

Q This money that you then took out of Superior Plans, was that Superior Plans' money that you took out

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or did you borrow it from them? In other words, after you took it out, was it your money borrowed from Superior Plans, or did you consider that it was still Superior Plans' money?

- A Corporate money.
 - Q It continued to be corporate money, is that right?
- A Yes.
 - Q You did not borrow from Superior Plans?
 - A At any time?
- Q No, this money that you took out in cash and you say you sent to Las Vegas.
- A No, the money that was given to Mr. Kimis was not borrowed by me.
 - O You are sure of that?
- A Yes.
- Q So that those little receipts you have in fact are Superior Plans' records, if according to you the money was Superior Plans' money?
 - A That's correct.
- Q Those aren't your records, they are the records of Superior Plans?
- A I would say they are both our records, but in the true sense of the word they are the corporation's records, that's correct.
 - Q Did you ever pay any interest on the debentures?

1	1hjb 75 Goldenberg - cross : 443
2	A No.
3	Q Were the debentures ever exchanged for stock?
4	A To my knowledge, Mart of them were and then later
5	I contested it with Mr. Gluskin.
6	Q To yournowledge, part of the debentures were
7	exchanged for stock?
8	A They were supposed to be, but I don't know if
9	I don't believe the stock was ever issued to Mr. Gluskin.
10	Q The question is, to your knowledge were the
11	debentures ever exchanged for stock.
12	A Completed the transaction or presented to be
13	exchanged?
14	Q The question is
15	MR. LITTLEFIELD: I would ask to have the witness
16	directed to answer the question.
17	THE WITNESS: I don't understand it.
18	THE COURT: The question is, to your knowledge,
19	were the debentures ever converted to stock of Superior
20	Plans, Inc.?
21	THE WITNESS: I would say no.
22	Q Any of them?
23	A No.
24	Q I show you Government's Exhibit 37, which is this
25	list which you say you took off the chits or the receipts,

Q

Which means that you don't know when you drew

A No, I don't --

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You don't know why you drew it up? 0

It seems obvious to me why. A

THE COURT: No, no. Do you know why you drew it up?

THE WITNESS: I drew it up to make a reconciliation of all the moneys that were given in conformity to

	Galdenbarr
1	1hjb 78 Goldenberg - cross
2	those chits and records that I compiled.
3	Q For what purpose
4	A I don't recall, I said.
5	Q Did you draw it up to give it to the New York
6	Times?
7	A That would be highly unlikely.
8	MR. BERGER: Objection, your Honor.
9	THE COURT: Sustained, sustained.
10	Q Did you draw it up to give it to any of your
11	business associates?
12	A I don't think so.
13	Q You testified yesterday that you gave a \$50,000
14	check on Superior Plans to M&G Amusement Company.
15	A Yes.
16	Q Did you receive any property back on that check?
17	A We didn't buy the property. No.
18	Q What property were you going to buy with the M&G
19	check?
20	A We weren't going to buy any property. As I
21	stated yesterday, it was to enhance the value of the cor-
22	poration so that I could conform to the agreement we made
23	with Mr. Kimis, Mr. Gluskin and I and Mr. Rudolph, so
24	that we would be able to make partial payments to Mr. Kimis

so that he would be able to successfully perform his

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requirements for getting a gambling license, and with the corporation that I stated yesterday that is mostly in real estate that has equity, most of the time they don't have

Goldenberg - cross

Q What was the \$50,000 check for?

A The \$50,000 check was actually as part of the whole amount of money that would have gone for getting the gambling rights, except we put it into M&G Amusement because that was now going to be the corporation that was going to apply for the gambling license.

Q M&G was going to be the corporation applying for the gambling license?

A That's right.

too much cash in the bank.

Q Did the M&G check come at the beginning of the payments you made over to the people in Las Vegas, according to you, or at the middle or at the end?

A If you will allow me a second, I can tell you, probably.

Q You don't have a recollection whether the M&G was right off the bat? You knew that M&G was the corporation for the hotel and the gambling license or --

A I knew that, but I believe we didn't put the money into M&G until maybe toward the beginning. Certainly I don't think in the middle, certainly not at the end.

lhjb 80

Goldenberg - cross

Unless I look at my records, I can't be sure.

Q So there was a corporation that you were putting this money into, M&G?

A No. There was a corporation that was going to be used for filing for the application for the license,

I was told by Mr. Kimis, but that party wasn't having -you know, I was not administering or handling or anything else.

Q Did you think that since you were giving a check over to another corporation that perhaps you ought to get any form of contract or agreement or note or anything back for you or Superior Plans?

A Well, we had two things. One, we had the check that we gave them the money, and usually there has to be a reason you give people money, and the other people can't say they never got it. Number two, Mr. Minskoff, who had a very established \$200 million worth of buildings, who happened to have even been a roommate of mine in the military academy, and, last, but not least, Mr. Gluskin and I and Mr. Rudolph and Mr. Minskoff, as I stated yesterday Mr. Gluskin prepared papers on the offer all understanding of what we were going to get, the different points, and that we were going to perform our end as far as bringing travel out there and distributorships and

Where did you contemplate the filing of the law-

We have minutes to this effect of Superior Plans

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suit?

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Goldenberg - cross

- Q We will get to them in a minute.
- A Oh
 - Q Where did you contemplate filing a lawsuit?
 - A I am not sure I understand the question. You mean in New York or in California?
 - Q Where?

MR. BERGER: Objection, your Honor. That would have been under advice of counsel.

THE COURT: No, I will permit it.

A (Continuing) I don't know where would have been the best legal place to file it.

- Q Did you consult with attorneys about filing it?
- A Yes.
- G Who?
- A I am not sure which of three possible ones it was at the time.
 - Q But you decided not to, is that right?
- 19 A Not at the time.
 - Q Later?
- 21 A Yes.
 - Q Where is the property or where was to be the property that this money was all invested in, the M&G check and all the rest of it?
 - A You mean where was the hotel going to be?

		. 451
1	lhjb 83	Goldenberg - cross 451
2	Q	Yes.
3	A	The hotel was going to be across the street from
4	the Tropi	cana Hotel in Las Vegas.
5	Q	In Nevada?
6	A	Yes.
7	Q	Not in Arizona?
8	A	No, not in Arizona.
9	Q	Was there going to be property in Arizona?
10	A	Not to my knowledge.
11	Q	You had no knowledge of any property in Arizona?
12	A	I might have had dealings sometime in my life
13	in Arison	na
14	Q	But not through these transactions?
15	A	Nothing to do with this project.
16	Q	You type, do you not?
17	A	Yes.
18	Q	In fact, you are not a bad typist?
19	A	I take shorthand and I type,
20	Q	Since 1971 have you been wor ing in acquisitions
21	and merg	ers?
22	A	Yes, I have.
23	Q	As a business consultant?
24	A	Yes, I have.

How have you been doing during that period?

1	lhas	Goldenberg - cross 454
2	Q	Since 1971.
3	A	Why don't I take 1975, which is the one name
4	right here,	I can remember that the best, I guess.
5	Q	Very well. What's your rough estimate of that?
6	A	1975, and now we are in 1976. I would say that
7	this year -	- I might have made \$30,000 or \$35,000.
8	Q	Was that roughly the same amount that you made
9	in the year	before that?
10	A	Highly unlikely,
11	Q	How much did you make in '74?
12	A	Now we are going into every year. I refuse
13	I don't know	w, unless I refer to my records.
14	Ω	You can't even give us a ballpark figure?
15	A	No, because my business is not constituted that
16	way, and if	you knew anything about acquisition mergers,
17	you would k	now that.
18	Q	When you got out of prison after the perjury
19	sentence, h	ow was your financial condition then?
20	A	Terrible.
21	Q	You had nothing?
22	A	Well, that's correct.
23	Q	Do you remember when your conviction was?
24	A	Not specifically. It is something I'd like to
25	forget.	

1	lhas2	Goldenberg - cross 455
2	Q	Does 1971 refresh your recollection?
3	A Sounds like that might be it.	
4	Q	You were convicted of perjury, is that right?
5	A	That's correct.
6	Q	That's lying under oath, is that correct?
7.	A	That's what I understand perjury means.
8	Q	Yesterday you said you were convicted of one
9	count, righ	nt?
10	A	That's what I believe I was.
11	Q	In fact, you were convicted of two counts, is that
12	not true?	
13	A	If you have the records I thought there were
14	three count	s and I was convicted of one. If the record
15	shows two -	-
16	Q	Shall I show you the record and ask you if it
17	refreshes y	our recollection?
18	A	I will go by what you say.
19		(Pause)
20		THE WITNESS: I don't think I have ever seen
21	this before	. Do you want to point out to me
22	Ω	1 and 3
23	A	There were three counts and I was found guilty
24	on two.	
25	Q	That's correct.

1	lhas	
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Goldenberg - cross

- A If you say so.
 - Q So you were wrong on only having been found guilty of one count.

A I don't know if I was wrong. To the best of my knowledge, that's what I was gold by I think my lawyer.

I never saw that piece of paper.

Q When the jury comes back and there are three counts, it reports a verdict on each of those counts if it has reached one, is that right?

A That's right.

Q You don't recall a foreman of the jury stood up and said guilty on count 1 and guilty on count 3?

A In 1971, that's quite a while ago, it's been a long time, and I considered my guilt on like 900 pages --

MR. LITTLEFIELD: I object to further --

THE COURT: Yes, yes.

A (Continuing) No, I don't remember. I just didn't remember.

Q Yesterday Mr. Berger asked you whether or not you were found guilty of having lied in a court proceeding,, and you said no. Do you recall that?

A I think Mr. Berger asked me was it besides a court proceeding also, and I said I believe so.

Q In fact, it was perjury before a grand jury,

1	lhas4	Goldenberg - cross	457
2	is that rig	ht?	
3	A	I appeared before a grand jury and the	e SEC,
4	both.		
5	Q	You were convicted of perjury before a	a grand
6	jury, is th	at right?	
7	A	I don't recall what I was convicted be	efore.
8	I just told	you, the best of my knowledge it was	one count
9	yesterday a	nd it was for perjury.	
10	Q	Included in your sentence was a \$4000	fine,
11	is that rig	ht?	
12	A	Yes, that is correct.	
13	Ω	By Judge Frankel in this court?	
14	A	I believe that is correct.	
15	Q	Have you paid that fine yet?	
16	A	No, I have not.	
17	Q	Up until today you haven't paid the f	ine?
18	A	That is correct.	
19	Q	Even though, as you said, last year you	ou earned
20	\$35,000, yo	u haven't paid the government the \$400	O fine?
21	A	That's correct.	
22	Q	Have you had conversations with Assis	tant United
23	States Atto	rney Blanchard and FBI Agent Vogel in	California
24	about payin	g that fine?	
25	A	That's correct.	

- 11	4010
1	lhas5 Goldenberg - cross 458
2	Q You he en't paid it so far?
3	A That's correct.
4	Q You were interviewed on many occasions by the
5	Internal Revenue Service in connection with an audit for
6	your 1968 tax return and the Superior Plans tax return,
7	is that correct?
8	A Yes.
9	Q Back on 1972?
10	A I don't recall when it was. Quite often.
11	Q The Internal Revenue Service gave you many
12	opportunities to explain your tax return, is that not
13	correct?
14	MR. BERGER: Objection, your Honor.
15	THE COURT: Sustained.
16	Q Did you have opportunities to explain your tax
17	returns
18	MR. BERGER: Objection, your Honor.
19	Q to the IRS?
20	THE COURT: Sustained.
21	Q Did you have meetings with the Internal Revenue
22	Service agents at which they asked you and you said you would
23	explain your tax returns?
24	MR. BERGER: Objection, your Honor.
25	THE COURT: Step up to the bench.

	465a 459
1	lhas6 Goldenberg - cross
2	(At the side bar)
3	THE COURT: How is this admissible?
4	MR. LITTLEFIELD: Prior inconsistent statement
5	to the IRS agents.
6	MR. BERGER: Not unless they are under oath.
7	They would have to be statements under oath.
8	THE COURT: No, no, if he has an inconsistent
9	statement
10	MR. BERGER: You can go through inconsistent
11	statements, but I object to "have the opportunity to
12	explain." You were asked certain questions and gave
13	certain answers
14	THE COURT: I didn't realize what he was going
15	to do. If he is going to inquire into inconsistent
16	statements, he has a right to get them in in any way he
17	wants to.
18	(In open court)
19	Q Do you recall how many times you met with the
20	IRS agents?
21	A No.
22	Q Does twelve sound about right?
23	A No.
24	Q More?

Less.

		466a
1	lhas7	Goldenberg - cross 460
2	Q	You are sure less than twelve?
3	A	No.
4	Q	Could have been twelve?
5	A	Possibly.
6	Q	How many less do you think it was?
7	A	I think to be exact it was about at the time
8	I went to W	ashington too, do you consider that part of the
9	IRS?	
10	Q	Certainly.
11	A	Eight.
12	Q	On which of those meetings, the first or the
13	middle or t	he last, did you show them these slips?
14		MR. BERGER: Objection, your Honor.
15		THE COURT: I think if you rephrase the
16	question	
17	Q	Did you show them the slips?
18	A	I believe so.
19	Q	Do you recall whether it was the first meeting
20	or the last	meeting or a middle meeting?
21	A	I believe it was, if I believe there were eight
22	meetings, I	believe it was probably the fifth meeting.
23	Q	Somewhere in the middle you showed them the
24	slips?	
25	A	Five against eight.

25

	1		
1	lhas8	Goldenberg - cross	461
2	Q	D' ou tell the agents that you	had borrowed
3	the money fr	com Superior Plans during these me	etings?
4	A	I don't recall.	
5	Q	You don't recall whether you ever	told them tha
6	you borrowed	the money?	
7	A	I must have had hundreds of hours	of conversa-
•	tions with t	the agents. I can't recall.	
9	Q	Hundreds of hours?	
10	A	Well, they was at my house for d	ays and days
1	and days. 1	went to Washington	
2	Q	You described it as eight times.	
3	A	Yes, but I didn't say how long I	saw them.
4	They came in	the morning and stayed a whole d	ay, two or
5	three of the	m at a time.	
6	0	Ten or twelve hour, at a time?	
7	A	Well, Mr. Scrop came there	
8	Q	No, did they ever stay for ten or	twelve hours?
9	A	I would sat at least on an average	e of five to
00	six.		
1	Q	Which, if you are right about the	number of
2	meetings, wo	uld lead you to forty hours?	
3	A	Yes. And if you are right	

THE WITNESS: If you were right, there were

THE COURT: Forty-eight?

		ACO
1	lhas9	Goldenberg - cross 462
2	twelve, it	would be sixty hours.
3	Q	But not hundreds?
4	A	I think I said around a hundred. I don't think
5	I said hund	lreds.
6	Q	You didn't say hundreds?
7	A	I don't believe I thought I said at best a
8	hundred. 1	f I said hundreds, I didn't mean hundreds of
9	hours.	
10	Q	Do you recall being sent a letter by the IRS to
11	set up the	first appointment?
12	A	I believe they sent me letters. I don't recall
13	if the firs	t appointment came in the form of a letter.
14	Q	Do you recall that you failed to appear pursuant
15	to the lett	er?
16	A	That, no, I don't recall.
17		MR. BERGER: Objection, your Honor.
18		THE COURT: Sustained.
19		THE WITTESS: To my knowledge
20		MR. BERGER: Move to strike.
21		THE COURT: Next question.
22	Q	Do you recall that the first meeting, then, took
23	place in th	e afternoon at your apartment?
24	A	As I said, I don't recall the first meeting,

any specific meeting. I just recall having these meetings.

familiar, the way you are saying it, but I am not sure that

that occurred. I think I might have said that to them.

24

1 lhasll Goldenberg - cross 464 (Government's Exhibit 39 marked for 2 3 identification.) 4 I ask if you recall receiving this letter. I have trouble remembering seeing this letter. 5 6 If I had to say, I would say I don't recall seeing this 7 letter. 8 Do you recall at the first meeting being given 9 a subpoena to produce your personal tax records and the 10 records of Superior Plans for a second meeting on August 23? 11 No. 12 You don't recall being asked by subpoena to 13 produce your personal tax records and Superior Plans' tax 14 records for a second appointment on August 23, 1972? 15 I don't recall the date. I do recall over a 16 period of time having to produce records, which I came down 17 and produced whatever I had, but I don't recall the dates. 18 Do you recall, then, coming down to the IRS agents 19 for the first meeting at the Internal Revenue Service, 20 that would be the second meeting between you and them, 21 specifically on August 24, 1972? 22 No. 23 Do you recall coming down for the first time 24 to the Internal Revenue Service office at 35 Tillary Street 25 in Brooklyn?

1	lhas12 Goldenberg - cross 465
2	A I recall being at Tillary Street, but not the
3	date.
4	THE COURT: You do recall the first time that
5	you were there?
6	THE WITNESS: I recall going there, but not
7	when it was.
8	THE COURT: He asked you that originally. He is
9	asking you now if you remember going there on the first
10	occasion that you went there.
11	THE WITNESS: Yes.
12	THE COURT: Proceed from there.
13	Q Do you remember swearing under oath to testify
14	truthfully at that interview?
15	A Yes.
16	Q Do you remember there being a stenographer there
17	to take down your answers and the questions?
18	A I seem to remember there were two IRS agents,
19	but I don't necessarily remember there was a stenographer.
20	Usually there was. I don't recall for sure.
21	Q What is your educational background, Mr. Golden-
22	berg?
23	A I went to public school, high school, college
24	Q Where did you go to college?
25	A University of Far Eastern University in the

	30	4/28	
1	lhas13	Goldenberg - cross	
2	Philippines	during the war and the University of Miami and	
3	Hofstra Col	lege and Uptown NYU.	
4	Q	The University of Miami, did you graduate?	
5	A	No.	
6	Q	What was your major?	
7	A	I believe accounting or business administration	
8	Q	How many years did you go there?	
9	A	University of Miami?	
10	Q	Yes.	
11	A	It was interrupted by my mother's illness, so I	
12	can't recal	I, because I believe I went back for a little	
13	while, so I	can't be accurate.	
14	Q	Approximately. One year? Two years? Three year	s?
15	A	If I had to guess, about a year and a half.	
16	Q	Hofstra College, what was the major there?	
17	A	Business management, accounting, I believe.	
18	Q	What about the Far Eastern University in the	
19	Philippines	, what was your major there?	
20	A	Languages.	
21	Q	Do you remember telling the agents that you wen	t
22	to the Merch	nants and Bankers School?	
23	A	That's not a college. I believe you asked me	
24	about collec	ges. Yes, I went to the Merchants and Bankers	

Business School.

I show you question 13 and the answer and ask

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1	lhas15	Goldenberg - cross
2	you to read	that question and answer to yourself.
3		(Pause)
4		MR. BERGER: Your Honor, I'd like to know which
5	document it	is.
6		MR. LITTLEFIELD: August 24, 1972.
7		THE COURT: You have read that question and
8	answer to y	ourself?
9		THE WITNESS: Yes, sir.
10	Q	Does that refresh your recollection, whether
11	you told the	e agents you went to Adelphi Institute?
12	A	It recollects my
13	Q	Does it refresh your recollection?
14	A	Yes, it refreshes my recollection.
15	Q	That you told the agents you went to Adelphi
16	Institute?	
17	A	I never told the agents I went to Adelphi.
18	I said to th	nem I
19	Q	Your testimony is that you didn't tell them?
20	A	That's correct.
21	Q	What did you tell the agents about Adelphi?
22	A	I told them that I registered at Adelphi.
23	Q	So where it says here, "I went to Adelphi

Institute," that's wrong?

25

That's correct. I never went to Adelphi.

	102	476a	7.7.
1	lhasl7	Goldenberg - cross	470
2	that right?		
3	A	It has been most of my adult 1:	ife business.
4	Q	Do you recall the accounting for	irm and the
5	accountant	who prepared your tax returns in	1968; both your
6	personal an	d the Superior Plans returns and	d other corpora-
7	tions?		
8	A	I do now, since I saw them in	court.
9	Q	In 1972, did you recall?	
10	A	Not too well.	
11	Q	In 1972 you didn't know who it	was who prepared
12	your tax re	turns in '68?	
13	A	I didn't say that. I just did	n't recollect what
14	he looked l	ike. That's what I think you me	eant. But I had
15	records of	who prepared my taxes.	
16	Q	Did you recall the place you ha	ad gone to to have
17	your taxes	prepared in '68?	
18	A	I believe they have several lo	cations. I could
19	only guess	where I thought it might be.	
20	Q	Did you know the name of the co	ompany?
21	A	I do now.	
22	Q	Did you then?	
23	A	I believe so, yes.	
24	Q	Did you tell the agents then?	

I have no recollection.

lhas18

Goldenberg - cross

MR. BERGER: Objection, your Honor.

THE COURT: No, I will permit it.

THE WITNESS: I don't even remember that they ever asked me.

Q Did the same people prepare your tax returns, the same man, Mr. Shapiro, at that company, Federal Tax Service, in '69 and '70 as well?

A I believe so. .

Q And in '72 you didn't remember who prepared your returns in '68, '69 and '70?

A Only because I believe there are other firms that prepared my accounting work too, so consequently I -- I don't think about that every day, until tax season I had no reason to think about it.

Q No reason to remember who it was who prepared your returns for the three years -- the two years before?

A Not unless I was directed to or asked questions.

MR. BERGER: Objection. May I approach the

side bar?

THE COURT: I don't think it is necessary.

Q Do you remember when you met with the agents on this first meeting on August 24, 1972, being asked about your bank accounts?

A I don't specifically remember any specific

Not if I closed it in '72. As I told you,

I might have closed it in '72. 25

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Goldenberg - cross

Q In '72 you knew that previously you had a bank account?

A I know I had a bank account at the Central State
Bank, a personal bank account. If it was closed in '73,
I certainly would know I had it in '72.

Q Do you recall telling them that you had an accountant at the Chase Manhattan and First National City Bank, the Valley National Bank in Tucson, two banks in Florida and the Mid-Continental Bank in Missouri?

A I don't recall telling them that, but some you are reading them off, I definitely had bank accounts in those banks.

Q You recall not telling them about the Central State account?

A I told you, Mr. Littlefield, I don't recall what I told them unless you as me a specific question.

Q Do you remember being asked about Superior Plans at this first meeting in Brooklyn?

A Not particularly. They might have asked me just about my own account. I don't really remember exactly what they asked me.

Q Do you remember where the office of Superior Plans was?

A Of course.

1	1has21 Goldenberg - cross 474
2	Q Where?
3	A 301 East 48th Street.
4	Q That was where the office always was?
5	A Other than on Mr. Leeds' premises.
6	Q There was an office on Mr. Leeds' premises?
7	A He kept the books there, so I consider that the
8	company was in both places.
9	Q It had two offices?
10	A No. The real office and the operating office
11	and the day-to-day office was at 301.
12	Q Do you remember telling the agents that the
13	office was now in 1972 at your place but previously it had
14	been in Mr. Leeds' premises?
15	A As I said, for a short period of time, it could
16	have been possible.
17	Q When you filed the articles of incorporation and
18	when you filed to open the bank accounts at Central State
19	Bank on March 18, 1968, you said that the offices were at
20	East 48th Street at apartment 20-D, your apartment at 301 East
21	48th Street, didn't you?
22	A That's where the offices, you know, as I said,
23	are, at 301 East 48th Street.
34	Q In 1968?
25	A First of all, I don't secall, as I just told you,

lhas22

Goldenberg - cross

I did say, I told you that the offices of Superior Plans were at 301 East 48th Street. When Mr. Leeds makes an application to the secretary of state to form a corporation and he doesn't know maybe at the time where the office is going to be or who the directors are going to be, what he tells them is only a matter of function until the corporation is formed. So that's what I might have told the IRS, if I told them anything. I can't remember five, six years ago, because, as far as I am concerned, that's a very insignificant question.

Q Where the offices of the corporation is?

A No, but I mean whether it was here for two days or there for four days later.

Q I am going to read you from page 20 of this document, question 143:

Question by Special Agent Liebowitz:

"Q Do you own any stock in Superior Plans?"

Asswer under oath, taken by a stenographer:

"A Me personally? I'm not sure. It could be through a corporation I control, so I'd have to ask you, would I be misleading you if I said no, I don't think so?"

My question is, earlier this morning I asked you whether you owned stock in Superior Plans and you said yes.

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lhas23

Goldenberg - cross

A That's right.

Q Now I ask you whether that refreshes your recollection as to whether you personally, Bernard L. Goldenberg, own stock in Superior Plans?

A At the time that I was asked that question, because, as I said, it is many years ago and I can have my recollection recalled by other questions or association of questions, I believe I owned: a corporation called Procedures, Inc., which was a private company, and maybe Procedures, Inc., owned the stock of Superior Plans.

Q Let me stop you. Where did you get that idea, may I ask, since there are no records that have been shown to you to indicate that at all?

A Because now I remember what might have precipitated my asking the agent would I be wrong in saying I owned it, even though I owned Procedures, Inc., but I not remembering just now about Procedures, Inc., and always being the controlling stockholder, 100 percent, I believe, yes, of Procedures, Inc., said that I. Bernard Goldenberg, owned stock in Superior Plans, and I still say that. I am trying to explain why I might ask the agent that question.

Now you are saying it is through Procedures that you owned the stock?

A I didn't say that, because even the question

109 483a 477 1 lhas24 Goldenberg - cross that I asked the IRS, I said if this was this or that was 2 3 that, would that be that. So I didn't even know myself at that time. Do you know now? 5 Yes. I would say -- no, I really am not positive 7 whether --Q Earlier didn't you say that you, Bernard L. 9 Goldenberg, owned stock in --10 Yes, when I forgot about Procedures, Inc. 11 So my answer would still be the same as before. If I owned 12 Procedures, Inc., 100 percent that owned the stock of 13 Superior Plans, would I, Bernard Goldenberg, be able to 14 answer it this way or that way. So my answer now is similar 15 to the same way I answered to the IRS, the way you read i... 16 Q Do you recall being asked where the records 17 for Superior Plans -- this is 1972, where the records for 18 Superior Plans were located? 19 In '72? A 20 Yes. 21 I don't recall being asked the question. A

> Do you recall this answer to that question: Q

Where are these records for Superior Plans located?"

Page 22: question 159:

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Goldenberg - cross

"A I would say to the best of my recollection, at 301 East 48th Street, the accounting records."

Is that correct?

- A If that's what I said. I don't recall.
- Q Was that .nere the records were in 1972?
- A The accounting records?
- Q The records for Superior Plans.
- A You just mentioned accounting records. There were other records besides accounting records.
 - Q Where were they?
 - A Which question do you want answered first?
- Q Where were the other records aside from the accounting records?
- A Some I believe at Mr. Leeds' office, some were stolen, and the rest were at 301 East 48th Street.
- Q In all the meetings with the TRS agents in 1972 when they asked you for the records of Superior Plans, you never once mentioned anything about an armed burglary at which records were stolen, isn't that correct?
 - A No, I don't recall.
 - MR. BERGER: Objection, your Honor.
 - MR. LITTLEFIELD: Shall I rephrase the question?
 - THE COURT: Yes.
 - Q Did you ever tell the agents in 1972 anything

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Goldenberg - cross

about an armed burglary at which records were stolen?

MR. BERGER: Objection, your Honor.

THE COURT: I will let you get at it a different way by other questions.

Q In answer to a request to produce records for Superior Plans by the agents in 1972, did you ever tell them that the records had been lost in an armed burglary?

A I don't recall.

Q But now you do recall that the records were lost in an armed burlgary in '68 or '69, is that right?

A I didn't say all the records. I said some records.

Q At that first meeting, do you recall this question and answer, question 223:

"Q In conclusion, Mr. Goldenberg, we are going to continue this sometime around September 7.

"A Which I am going to inform you what time?

"Q You will call me up in a couple of days to tell me what time it will be held. Is there anything else you want to say? Did you bring Superior Plans, Inc., records?

"A No, because most of them are in Arizona or with the government, the minute book, the ledger, the stock book and all that. All the rest are either contracts or

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486a lhas27 Goldenberg - cross 1 contractual things that tie in with the accounting. You 2 know, bank statements, checks and everything else you said 3 you would do on my premises." You said there were other records, this is 1972, 5 contracts or contractual things that tie in with the 6 accounting. What did you mean by that? Where are those? 7 What were you suggesting? A Just what the record implies, that everything to do with any negotiations that we might have had, like the instant charge plan that we entered in as an exhibit, I believe, and whatever records or any mergers that we might have been negotiating -- and I referred to Arizona because I believe the government subpoenaed the books from Mr. Leeds OF --Q No, my question is, by 'contracts or contractual my premises,"what did you mean? contracts --

things that tie in with the accounting which would be on When you say if you put up 200,000 shares --No, no, no, what did you mean? What sort of I tried to imply, it has a broad meaning. It could have meant anything that I was saying at that time. OK. Thank you, Mr. Goldenberg. At this time in response to that question about where the Superior Plans

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Goldenberg - cross

records were, you didn't mention anything about the burglary, did you?

- A I don't recall, as I said.
- Q You testified that the burglary was in '68 or '69. These meetings took place --
 - A I don't think I testified exactly --
- Q You testified you believed to the best of your knowledge that it was before '70 and certainly before '71.
 - A I said before '72 for sure.
 - Q Mr. Goldenberg --

THE COURT: Just ask a question.

- Q Do you think -- is it your testimony now that I asked you whether the burglary was before '72, specifically '72?
- A No, no. You said was it in '72. I said I certainly don't think so. You said '71? I said I doubt it. You said, well, was it before '70, and I said I am pretty sure it was. Then you asked '68. I said I don't know.

 You said '69? I said I don't know.
- Q But you do recall now saying that you were pretty sure without any doubt it was before 1971?
 - A I would say so. I said so.
- Q Was there another burglary after '72 between the time you met with the agents and the time you are here in

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1	lhas29	Goldenberg - cross 482
2	court today?	
3	AIS	was robbed once more in my automobile where I
4	carried two at	tache cases, and apparently somebody got into
5	my car	
6	Q Are	e there records
7	A	with a hanger.
8	Q May	I interrupt you? Were there records
9	there of Superi	ior Plans?
10	AII	have no idea what I might have lost, because
11	I lost quite a	number of papers on different negotiations
12	and different t	things, and all that.
13	Q Asi	ide from that, then, do you have any other
14	records of Supe	erior Plans, contracts?
15	A Nov	1?
16	Q Yes	
17	A In	my possession?
18	Q Cor	tracts that you were referring to back there
19	in 1972.	
20	A You	mean right now in my possession?
21	Q Any	where.
22	A Oh,	I have when the government brought me to
23	New York, all n	my stuff is in storage.
24	Q You	haven't gone to get it out of storage?
25	A Whe	ere am I going to carry it, on my back? I am

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lhas30 Goldenberg - cross

sitting in a hotel room here in New York. I have about twenty --

Q Where is it in storage?

A I will not tell you, because the government goes to everybody --

MR. LITTLEFIELD: I object, your Honor.

THE COURT: Sustained. Where is it in storage?
You will not tell him?

THE WITNESS: No, I will not tell him.

THE COURT: Very well.

Q You recall on that same interview, page 30, being asked the -- final question, being again reminded to bring the Superior Plans records at the next meeting, and:

"Q Let's get it on the record that our next meeting you will make those Superior Plans records available here.

"A I cannot bring them here because they are too much to carry, and under doctor's orders I really can't carry anything. I'm not going to bring all that stuff here and then have to take it all back when it is all available to you at my office, and I said so, and you said you would come and look at it."

Do you recall that question and answer?

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I can't. I have had three doctors, three heart cardiologists telling me I can't do that. Dr. Harry Gross and several others.

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At page 27 of that same interview, do you recall

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- 84						

Goldenberg - cross

remember all different IRS agents, so they never were always the same. So I can't really memorize any specific face, except Mr. Digricoli who I see quite often.

Q And Mr. Scrop whom you pointed out in court yesterday?

A Mr. Scrop I saw even more. Mr. Liebowitz is another one. Then there is a woman in Brooklyn and two men in Washington.

Q Mr. Goldenberg, do you recall being -- again taking an oath to answer the questions truthfully with a stenographer in Brooklyn for this second meeting?

A I keep on telling you --

MR. BERGER: Objection, ur Honor. Side bar.

THE COURT: Step up.

(At the side bar)

MR. BERGER: If that's the meeting of
September 7, 1972, I seem to have missed the place where the
oath was given. I can't seem to find it.

MR. LITTLEFIELD: Here it is, question 12.

MR. BERGER: Fine.

(In open court)

Q Do you recall, Mr. Goldenberg, a second meeting at IRS in Brooklyn when you took the oath to testify truthfully again?

1	lhas34	Goldenberg - cross 487
2	A	I remember always having to take the oath, but
3	I don't rem	ember in order any particular meetings.
4	Q	This was the meeting at which you indicated you
5	would bring	the Superior Plans records, and I ask you if
6	you remembe	r at this time being shown the Gluskin checks
7	again.	
8	A	Due to the fact I can't remember the meeting
9		THE COURT: Do you remember or
10		THE WITNESS: No.
11		THE COURT: Do you remember a meeting at which
12	you were sh	own the Gluskin checks?
13		THE WITNESS: No.
14		THE COURT: You never remember being shown the
15	Gluskin che	cks?
16		THE WITNESS: I don't recollect. I could have
17	been shown	the Gluskin checks, but I don't recollect
18	specificall	y being shown the checks.
19	Q	Let me show you the minutes from the first
20	meeting, Au	gust 24, and ask you if this refreshes your
21	recollectio	n that you were shown the checks.
22	A	That I'd appreciate.
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Goldenberg-cross

want to look at them. They always asked me those questions.

Didn't they ask me why do I refuse to look at them? It

seems very odd to me, unless I had a reason.

Q Question 206: "I have not looked at those checks so I cannot tell you and I cannot tell you because I have no intentions of looking at the checks, without the advice of an attorney, whether I should answer these questions or not."

A Now, that's why I didn't look at the checks, I knew there must have been a reason. Apparently I thought I should have -- you do allow people to bring their attorney.

Q Certainly.

The first thing you asked me is, you have the right to bring your attorney. So apparently on that question, which was probably an important one, I thought I ought to ask an attorney, because they always advised me to seek their advice. That's the reason why I don't recollect even the question, because I didn't even look *2 the checks.

THE COURT: You don't dispute that that's the testimony that was given on that occasion?

THE WITNESS: No, no. If that's what the testimony was by the stenographer, I don't dispute it at all.

Q The next meeting, the one on September 7th, page 3,

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No, I don't recognize it because it is not my handwriting whatsoever.

Did you deposit the Superior Plans checks in the Q

1	Thh4 Goldenberg-cross 491
2	bank?
3	A Yes.
4	Q But you don't recognize the endorsement?
5	A This is not my handwriting
6	Q That's not the question.
7	A No, I don't recognize it.
8	Q Did you give it to someone else to write on
9	the endorsement?
10	A No, no, I have never given, to my knowledge,
11	any checks to anybody else to be deposited.
12	Q Do you recognize this one?
13	A This is mine.
14	THE COURT: Which number, now?
15	Q 116, the stamp there, for deposit only, Superior
16	Plans, Inc., that appears to be typed, is that right?
17	A Yes. This looks like our typewriter, because
18	we had a special typewriter, that it looks to me like
19	this is in our typewriter.
20	Q But at that time when you answered that question,
21	you said you do not recognize whatsoever the endorsement
22	on that check. That was incorrect?
23	A I don't know. Is that what I said?
24	Q Check dated March 25, 1968.
25	A Yes.

1	lhh5	Goldenberg-cross	492
2	Q	Check number 116.	
3	A	Fine, I am looking at it.	
4	Q	"I do not recognize whatsoever	the endorsement."
5	Now looks	ing at it again, you are able to	tell that that
6	was your	typed endorsement?	
7	A	I say that this looks like our	typewriter.
8	Q	But then you didn't know that,	1972?
9	A	Whatever I said. I apparently	didn't think
10	I recogni	zed it at the time. Like the	rest of them,
11	I do, the	it's my signature. The other on	e is my signature.
12	Q	But then you didn't recognize	it. Now let me
13	ask you,	the next question was, "Do you	recognize the
14	handwriti	ing at all on these checks? Taxp	ayer reviews the
15	checks.		
16		Answer: Not particularly, to t	he best of my
17	knowledge	, I don't recognize the handwri	ting at this time."
18	A	What were you referring to?	
19	Q	The checks.	
20	A	Which? The backs, from:s?	•
23	2	It says "Do you recognize the	handwriting
22	at all on	these checks."	
23	A	So let me look at it.	
24	Q	When I asked you earlier this	morning whether
25	in fact M	r. Gluskin had written those ch	ecks and whether

His secretary could have. He could have signed it.

1	1hh 7 Goldenberg-cross Q.94
2	Q Earlier don't you remember saying that Mr.
3	Gluskin wrote out the checks?
4	A No. I said I recognized checks to be Mr. Gluskin's
5	I didn't say he wrote it out.
6	Q You don't remember me asking you about the hand-
7	writing?
8	A I do. I say this is his handwriting and I also
9	received the money.
10	Q You say it is his handwriting?
11	A This is his signature, that's what I mean.
12	Q You said it was his handwriting just then.
13	A Isn't his handwriting his signature?
14	MR. BERGER: Objection.
15	THE COURT: Overruled.
16	Q Do you remember this answer to this question,
17	14: "Do you recognize the handwriting at all on these
18	checks? Taxpayer reviews the checks.
19	Answer: Not particularly, to the best of my
20	knowledge, I don't recognize the handwriting at this time."
21	Do you remember that answer to that question?
22	A No, I don't. I don't remember that meeting.
23	If that's what I said, that's what I remembered at the time.
24	I believe you. This is a court taken stene are phy.
25	Q That's what you said at the time?

MR. LITTLEFIELD: Why don't we wait until the recess and then do it during the recess.

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Q In any event, do you recall the following questions towards the end were asked. Question 33: "Mr. Goldenberg, at this time I - want to terminate this interview and at the same time I want to set a definite

available?

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Question 36. "At that time you will have Superior's records

1hh 10

Goldenberg-cross

"A Yes."

Now we will turn to September 25th. This is the fourth meeting with the agents, and this is on September 25th. Excuse me. The meeting is postponed until October 11th. Do you remember that?

A No.

Q Again, you were advised of your rights and asked for the records of Superior Plans and your personal records. I show you memo on page 2. At this time there is no indication that you were sworn. This is a memorandum of the interview. I read you this. You stated at that time, "The only records Superior Plans, Inc., had was bank statements, cancelled checks, copies of corporation returns, certain agreements, taxpayer did not produce these agreements, and sheets of paper on which he had listed the corporation's income and expenses." Did you subsequently produce the sheets of paper on which you had listed the corporations' income and expenses?

A I don't recall. To the best of my knowledge, I probably did.

Q Do you remember this question and answer:
"Mr. Goldenberg was then asked about the \$530,000 and Mr.
Goldenberg stated that Superior Plans received from Mr.
Gluskin the amount of \$530,000 as an investment, and he,

1hh 11

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Goldenberg-cross

Goldenberg, used the money as follows: 1. He paid himself a salary as president of the corporation. He said he reported this salary on the corporation Form 1120 and on his Form 1040. 2. He paid operation expenses of Superior Plans. 3. He borrowed the remainder, which was about 90 percent of the \$530,000 or about \$475,000. He said that the corporation did not keep any formal record of what he borrowed."

Do you remember saying that to the agents?

A No, I do not.

MR. LITTLEFIELD: Mark this memo of conference,
301 East 48th Street, office apartment of taxpayer, dated
October 11, 1972.

(Government's Exhibit 41 was marked for identification.)

(Pause)

MR. BERGER: May it please the Court, at this time I believe all IRS agents who are sitting in the court that might be called as witnesses should be instructed to leave the room.

THE COURT: We are going to have a recess in a moment.

MR. LITTLEFIELD: May we just finish this matter, your Honor?

		131 505a
1	1hh 12	Goldenberg-cross 499
2		THE COURT: Yes.
3	Q	I am asking you to read this section in brackets.
4	A	I know what you are asking me.
5	Q	Have you now read it?
6	A	No. Could you answer me a question?
7	Q	No. Would you read that, please?
8	A	Yes, I will do that.
9		(Pause) ,
10	Q	I refer you specifically to point 3.
11	A	I don't doubt that.
12	Q	Do you recall saying that to the agents?
13	A	No. I'd have to be crazy to say that.
14		MR. LITTLEFIELD: Your Honor, I offer this
15	question	and this answer.
16		THE WITNESS: That was not taken by a secretary,
17	was it?	
18		MR. LITTLEFIELD: I understand that. I am offer-
19	ing this	question and answer, prior inconsistent statement.
0		THE COURT: Mr. Berger?
21		MR. BERGER: Objection, your Honor.
22		THE COURT: Sustained. We will take our mid-morning
23	recess.	Don't discuss the case, members of the jury.
24		(Jury not present)
25		MR. LITTLEFIELD: I have no objection to the IRS

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Goldenberg-cross

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agents being asked to be excused, except Agent Digricoli, who I need to handle the case.

THE COURT: I will permit the agent to assist you during the case. The other agents will be excluded during the balance of this testimony.

MR. LITTLEFIELD: With respect to the offer of that answer, I refer the court to --

THE COURT: It is perfectly proper for the witness who heard him say that to come on and testify to that, but I don't think his memorandum is admissible, Mr. Littlefield.

MR. LITTLEFIELD: This is an old subject, is it not. I have to put my mind to it.

THE COURT: Put your mind to it in the next 10 or 15 minutes, but I won't prohibit you from bringing on the agent who heard him say that. I don't think I can permit his unsigned memorandum.

MR. BERGER: Will you please instruct my client that he is not to speak to me because he is in crossexamination? I don't want to say anything to him at this time.

THE COURT: Mr. Littlefield had no objection to your talking to him in the meantime. He is your client.

MR. BERGER: That was direct, your Honor. This

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1	1hh 14 Goldenberg-cross
2	is cross now.
3	THE COURT: Just stay away from him. I am not
4	going to direct
5	MR. LITTLEFIELD: I don't have any objection
6	if they want to talk.
7	(Recess)
8	(In open court, jury present.)
9	BY MR. LITTLEFIELD:
10	Q At meeting number 4, which we have just been
11	talking about, do you mecall that you produced the receipts
12	A What receipts?
13	Q The receipts that you produced in court yesterday
14	for the Superior Plans matter.
15	A I don't quite understand the question.
16	Q You don't recall what receipts we are talking
17	about?
18	A I believe so, but I am not sure. Those chits?
19	Q Yes.
20	A That's what you always referred to it before as,
21	that's why I didn't know what you were talking about.
22	Chits, then. Do you recall whether you produced
23	them at this fourth meeting for the IRS?
4	A No, I don't recall these different meetings
5	in particular other than, as I told you, all different

	134
1	1hh 15 Goldenberg-cross 502
2	meetings at different times.
3	Q Do you recall at the end of this fourth meeting
4	or at the end of this meeting on October 11, 1972, at your
5	apartment agreeing to prepare a schedule showing how you
6	disposed of the \$530,000?
7	A No, I don't specifically recall again at any
8	meeting, but I do believe I was asked to prepare and
9	I said I would, at one of those meetings.
0	Now we will turn to number 5 meeting. The next
1	day, do you remember that the agents came back to your
2	house the next day, October 12th?
3	A No, I really don't.
4	Q Do yourecall at that time saying the following:
5	"Mr. Goldenberg stated that he has no recollection of
8	giving Mr. Gluskin any documents relating to the \$530,000
7	invested in Superior Plans, Inc."?
8	A Do I remember that?
9	Q Yes. Yes or no.
0	A I don't recall.
1	Q Let me show you this.
2	(Government's Exhibit 42 was marked for
3	identification.)
4	Q I show you Exhibit 42, the bottom, I ask if that

refreshes your recollection. That you told the agents that

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Goldenberg-cross

Q Is it your testimony that you didn't then recall giving Gluskin the debentures relating to the \$530,000, since you have just said that you would consider debentures to be documents, and I don't believe I ever showed Gluskin any debentures because, I told you, either they never were on my possession or he never converted into stock, and if he made up debentures, he didn't have to see them. He signed them. So he would know they existed anyhow, wouldn't he?

Q Who signed them?

A If a man makes up a debenture, he certainly must have seen the debentures.

Q Didn't you just say that Mr. Gluskin must have signed the debentures?

A I realize he doesn't have to sign the debenture.

I guess I do or my lawyer does.

Q But Mr. Gluskin was your !awyer for Superior Plans, wasn't he?

A Mr. Gluskin was a lawyer for Superior Plans?

Q Yes.

A He was a lawyer in negotating the contract that he finally made up between --

Q My question is, was Mr. Gluskin an attorney for Superior Plans?

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Goldenberg-cross

A	Not	to	my	knowledge,	in	the	sense	of	the	true
word										

- Q Just, please. Do you recall whether at that fifth meeting you turned over the receipts, the chits, whatever we call them, or any other Superior Plans records?
- A I don't recall any specific meeting the way you break it down, fourth, third, seventh.
- Q I direct your attention to the next meeting, October 17, 1972, at your apartment. Do you recall that meeting?
- A Not on October 17th. We have had meetings at my apartment. I don't remember the dates.
- Q Do you remember giving at this sixth meeting or providing any of these receipts?
- A No. I can't distinguish the sixth meeting from the fourth meeting. I keep on telling you that.
- Now I direct your attention to the seventh meeting, October 25th. Do you recall saying at that time to Agenta Digricoli and Scrop, again at your apartment, 20-B, "Mr. Goldenberg stated he would have a records for the year 1967" -- excuse re. Do you recall whether you brought the records at that meeting?
 - A I do not.
 - Q Now I refer you to the eighth meeting on the

1hh 19

Goldenberg-cross

next day again at your office, continuing the audit of your returns, do you recall whether you brought the receipts or showed the receipts at that meeting, the eighth meeting?

No, I don't recall.

Do you recall telling the agents that when asked if anyone was suing you to get back the \$530,000, you said no,, and you said you knew of no one contemplating any further lawsuit against you for the money? Do you remember telling that to the agents?

It is possible. Not completely clearly at this moment, I don't remember. I think I said something similar to that in a different way.

In 1972, was that your state of mind, that you knew of no one contemplating any future lawsuit against you for the money and that no one was suing you?

Yes. To the best of my recollection, I would say that sounds like the status at that time.

There were still no receipts at that meeting, is that right, or don't you recall?

I said I don't recall.

The ninth meeting on October 27th, again continuing with the audit, do you recall whether you brought the receipts then at your office?

Are we talking about a ninth meeting at my

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Goldenberg-cross

apartment all the time?

- Q The ninth meeting between you and the agents.
- A Fine. No, I don't recall.
- Q Do you recall Agent Scrop continuing auditing the taxpayer's 1040 and the Superior Plans, Inc. tax return Form 1120, do you recall -- promised, saying that there were many records that were not available and the taxpayer promised to produce them so the revenue agent could conduct his audit?
- A There was a discussion similar to what you mid, but not the way you said it.
 - Q What was the discussion?
- A From time to time Mr. Scrop, who had all these records of my personal taxes and the corporate taxes spread all over two apartments, was missing maybe a check or this or that, and he said "Well, can you help me find it?" I said "I will do my best to try and work with you and get whatever you are missing in order."
 - Q But you still hadn't produce the receipts, right?
 - A You are talking about these chits again?
 - Q Yes.
 - A I don't recall.
- Q o you recall receiving a letter from the IRS subsequent to this minth meeting setting up a final interview,

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Goldenberg-cross

bring any records, that the interview would be conducted by Nicholas Treterola, acting group supervisor, at 10 A.M. on December 20, 1972, at 3. Tillery STreet? Do you recall receiving that letter?

A Not particularly.

MR. LITTLEFIELD: Mark this Government's Exhibit 43 for identification.

(Government's Exhibit 43 was marked for identification.)

Q I show you a copy of this letter and ask if you recall receiving that to set up the next interview?

A Is there any reason why this is a photostat?

If it was sent to me, shouldn't I get the original?

Q You presumably have the original. This is the IRS carbon copy that they would have kept when they sent the letter to you.

(Pause)

THE COURT: I think the question is, do you recall getting the original of that letter?

THE WITNESS: I recall a letter similar to that, and that I appeared before a woman, I believe, in reference to this matter.

MR. LITTLEFIELD: Your Honor, Government's

Exhibit 30 was the letter, the Central State Bank letter

Goldenberg-cross

which Mr. Goldenberg had written on the bottom of it. The original copy of that which was offered into evidence seems to have disappeared. Either we have it or we showed it to counsel, or something.

THE COURT: Is it satisfactory to you, Mr. Berger, use this?

MR. LITTLEFIELD: This is a Xerox.

THE COURT: We can't immediately locate the original.

MR. BERGER: I object, your Honor.

THE COURT: Then you better locate the original.

MR. LITTLEFIELD: The original was offered into evidence yesterday, your Honor. I am not sure whether I showed it to Mr. Berger and it got mixed up there or it is rixed up in our papers, but this is a copy of it. Exhibit 30. It was identified by Mr. King of the Central State Bank. It was read to the jury already.

THE COURT: You are objecting on the grounds that it is not the original document that is in evidence, Mr. Berger?

MR. BERGER: Yes, your Honor.

MR. LITTLEFIELD: What we can do, your Honor, if we are unable to locate it, we will ask the court reporter to reread--

Goldenberg-cross

THE COURT: Reread the testimeny, and do it that way.

MR. LITTLEFIELD: We will do it that way.

MR. BERGER: Your Honor, if the original was here and introduced, and if Mr. Littlefield will represent that that's a copy of the original, I will withdraw my objection.

THE COURT: I think that is --

MR. LITTLEFIELD: That is what I represented, your Honor.

MR. BERGER: I withdraw my objection.

MR. LITTLETIELD: As with all exhibits before we introduced them, we made copies to hand to the parties.

THE COURT: In the meantime at lunch or some time, try to find the original of it. If there is a difference in it, we will let you explain it away.

BY MR. LITTLEFIELD:

Q Mr. Goldenberg, do you recall a letter you received from the Central State Bank which you wrote on the bottom, "Dear Mr. Powell: This is to authorize you to issue official checks as referred to above to Mr. Bernard L. Goldenberg personally in return for the \$40,000 certified check made out by John Gluskin, attorney to Superior

1	1hh 24 Goldenberg-gross
2	Plans, Inc. Sincerely, Bernard L. Goldenberg, President."
3	Do you recall that letter?
4	A Let me see it.
5	Q Government's Exhibit 30.
6	(Pause)
7	A Yes, this is my handwriting.
8	Q A few minutes ago you said that Mr. Gluskin
9	was not the attorney for Superior Plans.
10	A That's correct. You can have special attorneys
11	do special work for a corporation for a specific purpose
12	but not be the house counsel for a corporation or an
13	individual.
14	Q Do you recall receiving the letter to set up
15	the meeting in December from IRS?
16	A The letter you just showed me?
17	Q Yes.
18	A I told you that I recall appearing before
19	a woman where they said that they gave me the opportunity
20	that that letter implies to further explain the situation
21	under the possibilities otherwise that I would be indicted
22	for income tax evasion.
23	Q At that point you had not yet produced the chits,
24	correct; " through any of those first nine meetings?

I don't recall.

	144 518a
1	1hh 25 Goldenberg-cross 512
2	Q The tenth meeting was held on December 20, 1972,
3	at 35 Tillary Street. Do you recall stating the following,
4	paragraph 3: "Mr. Goldenberg stated that Mr. Gluskin
5	loaned about \$540,000 to Superior Plans and that he, Mr.
6	Goldenberg, borrowed this money from Superior Plans"?
7	A I told you, I don't ever recall saying that.
8	MR. LITTLEFIELD: Mark this Government's Exhibit
9	44.
0	(Government's Exhibit 44 was marked for
1	identification.)
2	Q I show you, Mr. Goldenberg, Exhibit 44 for
3	identification and ask you to read this third paragraph
4	inside the marks that I made and ask if it refreshes your
5	recollection if you told the agents on December 20, 1972,
6	that Mr. Gluskin leaned the money to Superior Plans and
7	you borrowed it from Superior Plans.
8	(Pause)
9	A No.

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Have you read that paragraph?

No, but it recollects my thinking on what that means.

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1	1hh 26 Goldenberg-cross 513
2	Q Did you tell the agents that?
3	A Not to my recollection.
4	Q Do you recall further along in that interview
5	being asked whether you had any documents relating to the
6	Kimis deal, as you called it at that point, and you said
7	you had receipts but you did not have them now because
8	they were in a trunk in the basement, do you recall that?
9	A Yes, I believe I said that.
10	Q Would that refresh your recollection as to
11	whether or not for the first nine meetings you produced
12	the receipts?
13	A If that was after the nine meetings in order of
14	the meetings you are talking about because, as I told
15	you, I don't recall the meetings in order then that
16	would have to be correct.
17	Q Do you recall telling the agents at that same
18	meeting that you had not taken any legal action against
19	Mr. Kimis or anyone else and you did not know where Kimis
20	was at this time?
21	A It is possible. I don't recall, but that seems
22	like it could be logical.
23	Q Do you remember telling them that you need more
24	time inforder to get the receipts?

Yes, because in our building they have many

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trunks, and these documents were there for quite a while.

To get anything out of the landlord is a problem today,

that I couldn't guarantee whether it would be one day

or two days or a half hour.

Q From the first meeting in July to December --

A No, from what I said there, that if they wanted me to get my trunks, which I had about seven of them in the basement, because amounts are limited for space, I would have to arrange for the superintendent to bring up the trunks and go through all the documents, papers, records, in these trunks.

Q Do you recall acting group supervisor Mr.

Liebowitz stating to you that the record shows that there
have been a large number of contacts made with Mr.

Goldenberg by Special Agent Peter J. Digricoli, that over a
period of several months Mr. Goldenberg stated that he
could produce these receipts and would do so, and that
despite numerous statements to this effect by Mr. Goldenberg
he had not to date produced the receipts. Do you remember

Mr. Liebowitz pointing that out to you?

A No, not necessarily. I had many talks with Mr. Liebowitz.

Q There was a conversation on January 11th. Do you recall a telephone conversation of January 11th?

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Goldenberg-cross

I will show you a memorandum and ask you if that refreshes your recollection.

(Government's Exhibit 45 was marked for identification.)

Do you recall a phone conversation with Agent Digricoli in which you indicated that you had two witnesses, Guido Benigno and William Eriss, who were prepared to testify that on different occasions they saw you hand currency to Arnold Kimis or Mr. Feinberg and that you would arrange to have these witnesses execute affidavits, and you would forward these affidavits to Agent Digricoli during the week of January 15th?

A I don't recall the specific time, but I do recall to one of the agents or more, because three would talk to me at one time, sometimes, that I did say that Mr. Guido Benigno and Mr. Erris would—— I would attempt to secure from them their affidavit that they saw me give envelopes, or whatever, to some of these people, like Mr. Kimis and Mr. Feinberg.

- Q Didn't you tell them that they would testify they saw you nand currency to Kimis or Feinberg?
 - A I don't recall that specifically.
- Q Does looking at Government's Exhibit 45, does that refresh your recollection?

1	1hh 29	Goldenberg-cross 516	
2	A Let m	e read it, because I didn't read it.	
3	(Paus	e)	
4	A No, b	ut it helps a little	
5	Q Does	it refresh your recollection as to whether	
6	or not you told	Agent Liebowitz	
7	A I kno	w the question.	
8	Q Let m	e finish it Agent Liebowitz, that Erris	
9	and Benigno wou	ld testify that they saw you hand currency	
0	to Kimis?		
1	A As I	said, it has helped me recollect a little	
2	better, and I w	ill give you the answer.	
3	Q Very	well.	
4	A It ha	s helped me remember that Mr. Erris,	
5	because I had g	iven him currency also in that regard	
6	but as far as M	r. Benigno, I can't recall. All I can	
7	recall is that I	gave envelopes with the money in it, and	
8	I don't know if	it was currency that Mr. Benigno	
9	necessarily mig	ht have seen.	
0	Q The 1	2th meeting that would be the 11th meeting	,
1	we won't count	the telephone call as a meeting January 23	
2	Tillary Street	in Brooklyn, that was when you brought	
3	the receipts, is	s that correct?	
.	A T don	th mosellant that at all	

Q

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Do you remember going to Tillary Street and

I don't even recall that at all, showing them the receipts necessarily at Tillary Street. It might have been in my apartment, it might have been in Washington, it might have been in Brooklyn. I don't know.

You don't know whether you showed the receipts to the agents in Tillary Street?

I don't recall.

Do you recall showing them Government's Exhibit 37, the list up here, at the same time as you showed them the receipts at that meeting in Tillary Street or at a meeting in Tillary Street?

No, I don't recall.

MR. LITTLEFIELD: Mark this as Government's Exhibit 46, memorandum and attachments.

(Government's Exhibit 46 was marked for identification.)

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1	1hh 31 Goldenberg-cross
2	Q If I show you this memorandum and refer you
3	to page 2, paragraph 3, if you will just look at this
4	paragraph
5	A Do you want me to read it?
6	Q Yes, read that Duragraph to yourself.
7	(Pause)
8	Does that refresh your recollection that at
9	the meeting in Brooklyn you handed to the agents this
10	Government's Exhibit 37 and the receipts and certain other
11	ments which you had drawn up in connection with what
12	you had done with the money?
13	A Not whatsoever.
14	Q It doesn't refresh your recollection at all?
15	A No.
16	Q At this point is your memory refreshed as
17	to for what purpose it was that you drew up that particular
18	sheet which lists the which summarizes the sheets?
19	A No. As I said on numerous occasions, I don't
20	recall the exact purpose why I made that up.
21	Q Do you mecall at that meeting producing two
22	documents, which I will mark as 47 and 48
23	(Government's Exhibits 47 and 48 were marked
24	for identification.)
25	Q Do you recall producing Government's Exhibits

1	1hh 32 Goldenberg-ross 519
2	47 and 48 for identification for the agents at Tillary
3	Street?
4	A At the 11th meeting or just in general?
5	Q At the last meeting with the agents in New York,
6	before Washington.
7	A I recall producing these documents, but I don't
8	remamber where or what occasion.
9	Q Do you remember giving these documents to the
10	agents, is that correct?
11	A Yes. Some agent. I don't know which agent or
12	when.
13	MR. LITTLEFIELD: The government offers 47
14	and 48, your Honor.
15	MR. BERGEN: No objection, except if the
16	original were given to the government, these are photo-
17	copies.
18	THE COURT: Do you have the originals?
19	MR. LITTLEFIELD: Yes. Let me see if I have
20	them. These were the miginals which were given to the
21	government.
22	MR. BERGEN: No objection.
23	MR. LITTLEFIELD: I guess we should mark these.
24	I will just remove the slips and put them on these originals
25	(Government's Exhibits 47 and 48 were received

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in evidence.)

MR. LITTLEFIELD: May I read these to the jury, your Honor?

THE COURT: Yes, you may. They are in evidence.

MR. LITTLEFIELD: Exhibit 48, sheet of paper, typed, which this appears to be a copy. "Superior Plans, Inc., minutes of corporation, dated" -- let's start with Exhibit 47. "Minutes, Superior Plans, Inc., February 2, 1969. Discussion was held with Attorney Philip Leeds as to the action required based upon the investment into Superior Plans, Inc., and moneys invested with the Arnold Kimis Syndicate in Nevada. Indications were that the business deal would not go through as indicated by Kimis and outlined originally by Minskoff, Leo. Further, the situation became more complicated by the attitude of John Gluskin, attorney for Mastercraft and his investors. It was decided to wait until April 16, 1969, at which time progress was promised in a possible substituted direction. However, it was decided that Bernard Goldenberg talk to Leo Minskoff and make a trip to Nevada and possibly Arizona to view the property. Also the motel in San Diego of Mac G Amusement Company. Leeds seemed not too cooperative based upon the present circumstances. Leeds indicated he would like to resign, if it would not be

1	1hh 34 Goldenberg-cross
2	too inconvenient. Mr. Goldenberg said he would consider
3	replacing Leeds as soon as it all became possible."
4	Q I ask you a question, Mr. Goldenberg. Isn't it
5	a fact that you drew that up for the purpose of providing
6	the Internal Revenue agents with some sort of fabricated
7	minutes for Superior Plans which could explain your
8	position as o what you had done with the money?
9	A No.
10	Q Did you talk to Mr. Leeds about the money do
11	you claim that you had a meeting of the board of directors
12	or whatever, of Superior Plans on February 2, 1969?
13	A This document is accurate.
4	Q Signed by Bernard L. Goldenberg, President,
15	correct?
6	A That I will have to look at. That's my
7	signature.
8	Q Is it your testimony that it was made at that
9	date, February 2, 1969?
00	A You mean was it typed that date?
1	Q Or within a few days thereafter?
2	A Yes, but I can't say it was typed the same day.
3	Q It was based on a meeting which you held of
4	Superior Plans?
5	A This document reflects what happened. What you

1	1hh 35 Goldenberg-cross
2	already heard, and this is what happened.
3	Q Your testimony
4	A Except I would like to clarify Arizona. Now I
5	understand why you about land in Arizona.
6	Q My point is, Mr. Goldenberg, did you discuss
7	with Attorney Philip Leeds as to the action required
8	based upon the investment into Superior Plans and moneys
9	invested with the Kimis Syndicate in Nevada?
10	A I heard the letter. Just what the letter
11	Q Did you discuss that with Mr. Leeds?
12	A Yes.
13	Q That is your testimony here?
14	A Just what the letter says.
15	Q No. My question is, did you discuss it with
16	Mr. Leeds.
17	A Yes, I understand the question. My answer
18	is yes.
19	Q Yes, you understand the question, but my question
20	is did you discuss this with Mr. Leeds?
21	THE COURT: I think he indicated that he did
22	talk with Mr. Leeds. That's his answer. Is that correct?
23	THE WITNESS: Yes.
24	Q About what is stated here, the investment into
25	Superior Plans and the moneys invested with Kimis Syndicate.

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A Whatever that letter says. Do you want me to read it again? Do you want to ask me the question again? The answer is yes.

Q Mr. Goldenberg --

THE COURT: I think we have been through it enough.

MR. LITTLEFIELD: I will read the next one, it is dated March 8, 1970. "Minutes of corporation, Superior Plans, Inc.," again it is typed. "Discussions were held in detail over the phone with all parties as to who actual the investors were in Superior Plans, Inc."

Q At this point you weren't sure who the investors were in Superior Plans, Inc.?

A You wanted a yes or no answer or can I answer you?

Q A yes or no answer.

A It is impossible. No, I wasn't sure who was the investors.

Q Hadn't you stated that Mr. Gluskin had invested--

A After that, if you read, he came to me and so did
Mr. Dayon and so did the stockholders, and they all said
everybody owned their investment in Superior Plans because
Mr. Gluskin didn't have the right to do such a thing,
as Mr. Dayon testified a couple of days ago. His
attorney said that all this money belonged to Mastercraft.

Goldenberg-cross

MR. LITTLEFIELD: Your Honor, may I --

THE COURT: Yes, yes. Stricken.

MR. LITTLEFIELD: "This became necessary as it was obvious that action had to be taken to recover the moneys invested with the Kimis Syndicate."

Q So this is minutes of the corporation. By the way, on March 8, 1970, who was the corporation?

A As I always stated, that the corporation was only controlled by me, Bernard Goldenberger --

These minutes were minutes of your meeting with yourself?

Really?

Is that right?

They were corporation minutes and the corporation consists of directors and officers.

Q So you thought you should make minutes of the corporation meeting of March, 8, 1970, signed by Bernard L. Goldenberg?

Is this a joke?

It is not a joke. I am asking you who attended the meeting.

A Does it say there who attended the meeting? Did it say that reference was made -- you can have a meeting over the telephone.

O My question is who attended the meeting.

THE COURT: Mr. Goldenberg, let's get some order here. Who attended the meeting?

THE WITNESS: If I can look at that document, I can better recollect who attended, if anybody.

(Pause)

THE WITNESS: That's what I thought.

Q Can you now answer the question who attended the meeting, having read the document, Exhibit 48?

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1	lh ja2	Goldenberg - cross 526
2	A	Yes.
3	0	Who attended the meeting?
4	, A	I was the only one present at the meeting.
5	0	Did you then prepare these minutes?
6	A	Yes, subject to talking to people on the
7	phone.	
8	Q	You typed them?
9	Α .	I don't know if I typed it. I can't tell or
10	recollect.	It is more than possible I typed them.
11	Q	Do you want to look at themagain and see whether
12	you can tel:	l if you typed them?
13	A	That would be hard for me to tell, but I will
14	try. I car	n't be sure. I can only give you an educated
15	guess.	
16	Q	Did you have secretaries working for you at
17	301 East 48t	th STreet?
18	A	At times we employed a temporary service, you
19	know, Brown	or Kelly Girls.
20	Q	When the secretary types something, don't they
21	normally put	their initials down in the corner?
22	A	Only if it is a letter going to somebody.
23	This is not	a letter,
24	Ω	Minutes of the corporation, there would be no
25	such connota	tion?

	•	그 없이 가면 보고 있다면 하는데 이번 사람이 되었다면 이 없는데 하는데 하는데 하는데 하는데 되었다면 하는데 되었다면 하는데 하는데 없다면 하는데		
1	lh ja3	Goldenberg - cro	oss	527
2	A The	re could be. I am not	precise o	on the rules
3	about that.			
4	Q Ear	lier, looking at the b	ack of one	of the
5	Gluskin checks,	you were able to tell	that that	was typed
6	by you on the e	ndorsement for Superio	r Plans?	
7	A Ib	elieve I said it was o	ur typewri	ter. I don'
8	say I typed it.			
9	Q Can	you tell whether this	was your	typewriter?
10	A We	have two different typ	ewriters,	or we did,
11	anyway. It ap	pears to be, yes.		
12	Q "We	" being whom?		
13	A Sup	erior Plans.		
14	Q You	and Superior Plans?		
15	A When	n you talk about "we,"	it is a c	orporation.
16	You talk about	"I," it is whoever "I"	is. "We	," I meant
17	Superior Plans,	the corporation.		
18	Q "We	" "Superior Plans," h	ad two typ	ewriters?
19	A I be	elieve we did at the t	ime, yes.	That
20	appears to be or	ur typewriter or Super	ior Plans'	typewriter
21	Q Did	you dictate these or	did you pr	epare them
22	yourself?			
23	A If	it was typed by the gi	rl, I gues	s I dictated
M	it. If I typed	it, I dictated it to	myself.	
25	Q You	now don't remember who	ether you	typed it

or not?

A I tell you I wasn't sure whether I typed it or not. I could have. It's more than possible.

Q This meeting -- continuing reading the March 8, 1970 meeting:

"It was virtually impossible to decide who were the investors based upon the attitude of all the parties concerned. It was decided as consult outside legal service, not Philip Leeds. Based upon said legal opinion, it would then be decided what action should be taken."

You say it was decided to consult outside legal advice. Who was it that you consulted with when the decision was arrived at that led you to write down it was decided.

A It was decided by me, based upon the different people I talked to who gave me their opinion that they were the owners of the stock or the money that went into Superior Plans.

Q "Meanwhile, Bernard Goldenberg, President" -I am reading again from Exhibit 48 -- "would still pursue
on his own other situations in Nevada and elsewhere, where
income could be developed for Superior. No accounting
statement was prepared other than as required to file for

lh ja5 Goldenberg - cross

corporate income tax purposes for the year 1969."

Again signed B. L. Goldenberg as president.

That's your signature, is it not?

- A Yes, it appears to be. I would definitely say so.
- Q It says here that it was decided to consult legal advice about deciding what legal action should be taken; is that right?
 - A Yes.
- Ω You did contemplate trying to sue to get the money back?
- A You don't have to sue to get money back. There are other ways.
 - O To take legal action?
 - A You can amicably settle with people.
 - Q Legal action to get the money back?
 - A That was contemplated, yes.
- Q It is your testimony that this March 8, 1970 -this document dated March 8, 1970 was made at or about
 that time; is that your testimony?

A I didn't say that. I said those documents have my signature on, it appears to be our typewriter, Superior Plans' typewriter. I could have typed it or one of these temporary girls, but exactly when that was done other than what speaks for itself, those dates I guess

specific time is required.

MR. BERGER: Objection, your Honor. A more

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- Q Approximately.
 - A I haven't got the slightest -THE COU. I: He wants a time.
 - Q We will say August 12, 1969.

A Without the availability of pink sheets, which is the bible of the over-the-counter market, and it fluctautes from minute to minute, sometimes, or it stays that way for a long time, I couldn't even venture a guess, other than at some particular time I believe the Department of Currency or the Controller of Banks took this to be worth something, because there was some couple of hundred thousand dollars that was owed to them by the people we were negotiating with.

Q I'm sorry, that one I missed.

MR. LITTLEFIELD: Could we have the last part of that answer?

(Record read)

- Q Whom were you negotiating with?
- A The people that owned the company, Instant
 Charge Plan, Inc., that had offices and computers and were
 doing considerable amount of money -- credit card business,
 Instant --
 - Q Is there more?
 - A I think so, but for brevity I could stop here.

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Goldenberg -cross

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Q Go ahead.

A Instant Charge Plan was quite an intelligent, interesting creation, that the problem of having a credit card at a particular store that you might want to buy at, you might just not have that particular credit card. You might have American Express instead of Diners. This was one card that wherever you went would be considered equivalent to any type of card, credit card.

Q Did Mastercraft stock go up from the year 1968 or was it gradually going down after '68?

A I can't recall, but I would say it was going up for quite a period of time, and then it stayed at a point, and other times it was going down. I'd have to look at the records.

By 1969 had the project for the video tape
machine -- had they managed to manufacture the video tape
machine sufficient that it could be sold in this country?

A Never manufactured the video tape recorder in quantity.

Q In fact, you told the agents that Mastercraft Electronics stock in -- during the year 1968, that you had received certain shares of Mastercraft stock, 300,000 shares, and they were only worth 5 to 10 cents apiece; is that right?

Goldenberg - cross

A No. I said, I believe, and I have it with me, that I had an option to buy shares, I believe, in Master-craft as a consultant. That would be either my fee or consideration or whatever to work for the company.

- Ω In connection with the merger and the stock sale, there were 4,200,000 shares of Mastercraft issued; right?
 - A I waldn't know unless I looked at the records
 - O Approximately that many?
- A I heard that mentioned here in testimony.

 It sounds like a good figure that I slightly recall, so
 to the rest of my knowledge, I would say that that sounds
 that it could be.
- Q The bulk of that was invest. ... tock, was it not?
 - A I would say yes, sure.
- Q Which means it couldn't be traded freely on the public market, right?
- A That's what I understand investment stock to mean.
 - Q Your stock was investment stock?
 - A Yes, my stock was.
 - Q So it couldn't be traded on the public market?
 - A Without getting registered or getting it freed

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Goldenberg - cross

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up by the SEC with a letter from them, that's correct.

- Q Yesterday you stated that you started Superior Plans -- we will move on to Superior Plans, now -- because you had the idea of acquiring advertising agencies, right?
 - A Yes. To that extent, yes.
- Q In fact, the articles of incorporation, do you recall whether they referred to advertising?
- A No, because usually in all corporations you make a broad charter to cover many things, but maybe it did.
- Q The record shows the date that the corporation was -- the articles of incorporation were filed March 12th.

 Do you recall that from one of the exhibits?
 - A No, I don't.
- Q I think Government Exhibit 9-A says date filed 3/12/68.
 - A I never saw that.

THE COURT: Show it to him.

MR. LITTLEFIELD: It is in evidence.

THE WITNESS: But I never saw it.

(Pause)

THE WITNESS: Yes, that's what it says.

Mr. Leeds

THE COURT: You recall that it was about that time that it was incorporated?

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1	1h jal2 Goldenberg - cross 536
2	question. How much funds? What funds?
3	Q You agree that funds were deposited immediately
4	on March 8th in the Gluskin account from Gluskin in the
5	Superior Plans account?
6	A How immediate? I agree that they all were
7	deposited in these both banks, and within a reasonable
8	time. Everytime I got the checks they would be deposited.
9	Q Essentially this is the first check dated
10	March 8, 1968.
11	A Certainly within a couple of days, or whatever,
12	it would be deposited into the accounts of Superior Plans.
13	Q I show you the deposit tickets which are in
14	evidence, No. 1, and ask you if you recall now on March 8th
15	depositing check for \$25,000 plus \$5,000 cash in Superior
16	Plans for a total of \$30,000.
17	A This is not my handwriting.
18	Q Do you recall making the deposit?
19	A Because it is not my handwriting, I can't
20	recall making the deposit.
21	O Did someone else make the deposit?

Q Did someone else make the deposit?

I doubt it.

Isn't this the day the bank account was opened, March 8th; right?

Wait a minute. You asked me a question.

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1	lh ja 15	71 Goldenberg - cross 539
2	A .	That's the way they instructed me to do it.
3	Q	No. The question is, would you have cashier's
4	checks made	out?
5	Α (Official checks. There is a difference, I
6	think.	
7	Q	Official checks?
8	A 1	es.
9	Q 1	Then you would take these checks to Mr.
10	Lazarus; is t	that right?
11	A S	Sometimes
12	Q	You would not cash them in the bank, these
13	checks that w	vere over \$400,000
14	. A \$	200,000.
15	Q M	r. Lazarus cashed for you
16	т	HE COURT: \$250,000 some-odd.
17	Q \$	251,000 cashed by Mr. Lazarus; that's correct?
18	А Т	hat seems accurate.
19	м	R. LITTLEFIELD: May I read, your Honor
20	м	R. BERGER: Objection, your Honor.
21	т	HE COURT: No. I said that I would take
22	judicial noti	ce of it and permit it, which means that it
23	may be read to	o the jury.
24	м	R. BERGER: Your Honor, your taking judicial
25	notice of it	and it being read to the jury are two different

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1	lh ja 16 Goldenberg - cross 540
2	things.
3	THE COURT: Let me say that it is admissible,
4	in my opinion.
5	MR. BERGER: I would object.
6	THE COURT: I wanted to make that know to
7	both of you before this witness testified so that either
8	one of you would be able to do whatever you wanted with
9	it and not just know after the testimony had been concluded
10	BY MR. LITTLEFIELD:
11	Q In any event, you did not have the checks
12	cashed at the bank, right, you went over to Mr. Lazarus
13	to have the checks cashed?
14	A No, we
15	Q Yes or no. These \$251,000 worth.
16	A Oh, that's different. That approximately is
17	what I cashed at Mr. Lazarus.
18	Q Then your testimony, as I understand it, is
19	strike that.
20	Then you gave it to him? And under what
21	circumstances? I don't understand that.
22	A How many questions do you want
23	Q What did you do with the money after Mr.
24	Lazarus gave you the cash?
25	A I gave it either to Mr. Kimis upon his

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1	1h ja 17 Goldenberg - cross 541
2	instructions, either Mr. Eriss or Mr. Feinberg or Mr. Metz
3	or directly to Mr. Kimis.
4	Q You got the money from Lazarus. Did these
5	people come with ou to Lazarus?
6	A Drove up in a chauffeur-driven car.
7	Q Who drove the chauffer-driven car?
8	A Mr. Eriss.
9	Q Or did Mr. Benigno ever?
10	A Mr. Benigno had nothing to do with Mr. Kimis.
11	MR. BERGER: Objection.
12	THE COURT: No, I will permit it.
13	Q Was Mr. Benigno your chauffer?
14	A Mr. Benigno was my assistant. He worked in
15	different things and from time to time he drove me around
16	also in a Volvo. At least I think it was a Volvo.
17	Q You would go to Lazarus. Did these men come
18	in to Lazarus with you or did they stay out in Kimis'
19	chauffeur
20	A Mr. Kimis I introduced to Mr. Lazarus, who said
21	here he didn't remember, and thereafter Mr. Lazarus told me
22	he had cashed other checks for Mr. Kimis.
23	Q The question is, did Mr. Kimis
24	A Yes, he did.
25	Q and these other people come in with you to

Mr. Lazarus?

A Sometimes Mr. Feinberg did come in with me and meet Mr. Lazarus. On several occasions, Mr. Kimis and Mr. Feinberg. Several times Mr. Kimis, and 60 percent of the time they did not at all go in to Mr. Lazarus because they weren't even available. I met with them maybe four hours later at their hotel or at a restaurant.

Q So you would go to Mr. Lazarus and get the money?

A As I said, with them sometimes and without them sometimes.

Q If they were with you, would you hand it to them right there in front of Mr. Lazarus?

A I recall on numerous occasions having done so.

Q Then you would reach into your pocket and pull out one of these little slips of paper and hand it to them and ask them to initial it in front of Mr. Lazarus?

A I don't remember if Mr. Lazarus was privy to what I was doing every moment. It is possible. I don't recall.

Do you recall any occasion on which you got the money from Lazarus in Lazarus' check-cashing establishment, you were accompanied by one of these men, you turned the money over to these men, you got the initials, all there

in the Lazarus check-cashing establishment?

A That's possible. You had to be there. There are little booths. Everybody is standing up and everybody is buying jewelry. So it is not one of these things that you sit down in a bank and are treated like to tea and coffee and crumpets. It is one, two three. That's why he only gets one percent. No big deal.

Q Did you talk to anyone else about how you were turning this money over and what sort of receipts you were getting, any of these investors that you described in your minutes of Superior Plans?

A Mr. Gluskin was familiar with it.

Q Was he satisfied with the receipts that you were getting?

A He didn't seem to have any objection. He never called any objections to my attention.

MR. LITTLEFIELD: I have it now, your Honor.

I just go back to that question.

This is the Code of Federal Regulations, instructions relating to reports of currency transactions relating to banks and other financial institutions. It says:

"Section 102.1. Reports of currency transactions required. Commencing with transactions occurring in

the month of August, 1959," and then this particular regulation was in effect until July 1972 -- "Commencing with transactions occurring in the month of August, 1959, every financial institution in the United States shall file monthly reports on Form TCR-1 concerning each deposit or withdrawal or other payment or transfer effected by, through or to such financial institution which involves transactions in United States currency as follows:

- "(a) Transactions involving \$2,500 or more of United States currency in denominations of \$100 or higher.
- "(b) Transactions involving \$10,000 or more of United States currency in any denominations.
- "(c) Transactions involving any amount in any denominations which in the judgment of the financial institution exceed those commensurate with the customary conduct of business, industry or profession of the person or organization concerned."

I believe the Court has taken judicial notice that that was the regulation.

THE COURT: Those rules and regulations were in effect during that period of time.

All right.

Q Mr. Goldenberg, it is a fact, is it not, that

Goldenberg - cross

the bank would have had to have reported under this regulation transactions involving \$2,500 or more of United States currency and denominations of \$100 or higher or transactions involving \$10,000 or more of United States currency in any denomination?

MR. BERGER: Objection.

THE COURT: Sustained.

Q Mr. Gluskin had been fairly meticulous -- was a fairly meticulous lawyer, Tommy Dorsey's lawyer, was he not?

A I said I think he was either Tommy Dorsey's lawyer or some well-known bandleader like that. I'm not sure it was --

Q Did he strike you as a thorough and careful lawyer?

A I would say he was competent.

Q Did he request these debentures to cover the money paid you for Superior Plans?

A Yes.

Q You had a conversion of stock, you had that unexecuted letter converting the debentures into stock, did you not?

- A To the best of my knowledge, I recall that, yes.
- Q Was Mr. Gluskin satisfied with your receipts?

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Goldenberg - cross

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2 MR. BERGER: Objection.

THE COURT: Sustained.

Q Did you discuss with Mr. Glaskin the receipts you were getting for the money?

- A I showed it to him from time to time.
- Q From time to time you showed him those receipts?
- A Yes.
- Q Was he satisfied?

MR. BERGER: Objection.

THE COURT: Sustained.

Q Did he indicate he was satisfied?

MR. BERGER: Objection.

THE COURT: Sustained.

Q Why is it that you gave Mr. Feinberg and Mr. Kimis the money in cash, Mr. Goldenberg?

A Because they were -- the reason why I was giving it to Mr. Kimis, they were his associates -- not his associates --

Ω The question is, why did you give it to them in cash rather than checks?

A Because that was my deal with Mr. Kimis, and the way he wanted it. So giving it to them was the same as giving it to Mr. Kimis. He instructed me, if he wasn't available, to give it to Mr. Eriss or Mr. Feinberg or

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1	lh ja 23 Goldenberg - cross 547		
2	Mr. Metz, I believe his name was Metz, which was an		
3	attorney of his.		
4	Q Yesterday do you remember saying that the		
5	reason you gave cash was because you were known in Las		
6	Vegas and Gluskin was a lawye. ?		
7	A Oh, I		
8	Q Do you remember that?		
9	A That was to a different incident entirely.		
10	Q What		
11	A That had nothing to do with why I gave cash		
12	to these three people. That's completely like peas to		
15	carrots to hot dogs.		
14	Q You realize that those receipts would not have		
15	provided any grounds for you to take legal action to		
16	recover this money?		
17	MR. BERGER: Objection, your Honor.		
18	THE COURT: Rephrase the question.		
19	Q Did you anticipate that those receipts provided		
20	you with legal grounds to recover the money?		
21	A I go one further		
22	MR. BERGER: Objection.		
23	THE COURT: Sustained. You can rephrase it.		
24	I am not going to cut you off from that line of inquiry.		
25	Q Earlier you testified that you did not intend		

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Goldenberg - cross

A That's the basic thing you study first.

Q Did you want to have a contract in connection with your turning over over \$400,000 in cash to these people?

A I told you we had an understanding that

Mr. Gluskin made up, plus I had the receipts from them,

plus today there is no definitive method of doing business

in anything because the whole concept of acquisitions,

mergers, contracts, the whole thing is people have bought

\$20,000,000 businesses on the golf course, believe it or

not, so there is no way.

Typical is Howard Hughes, and there are a few still like him besides only him, who has recently died.

Q When you didn't turn over the money at the check-cashing establishment in one of those booths, where did you turn it over?

A At the Park-Sheraton Hotel where Mr. Kimis stayed quite frequently.

Q You got the initials there, that right?

A If that's where I turned over the money to him.

It would seem likely I wouldn't do it three days later.

Q Did you turn over the money anywhere else?
In one of the cars, ever?

A I didn't want to answer without being asked,

Goldenberg - cross

I was going to say on at least three occasions in his limousine I turned over money to him in the car.

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- Q And got one of your little receipts?
- A Yes. One of my little receipts.

MR. LITTLEFIELD: Have we got those receipts today? Do you have them, Mr. Berger?

Q Your testimony is you turned over \$400,000 in cash on the basis of those receipts; is that right?

A No. I would never have given anybody only four hundred some-odd thousand dollars in cash on the basis of any kind of document. I had to know who they were, who I was doing business with, what I was going to get for the money, and a few other things.

This was only an accounting to me and Gluskin to be sure that we had a record and that Mr. Kimis would know that we gave him 400, not 200, because he wasn't always there to collect the money himself.

Q And he would have been satisfied with that as the records; is that right?

A I wouldn't have done it if I wasn't satisfied.

You said I was in business ten years. I'm not in the habit
of being completely stupid.

Q You bought and sold stocks, you testified previously, many times before you bought and sold stocks?